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**INVESTIGATION OF WHITEWATER  
DEVELOPMENT CORPORATION  
AND RELATED MATTERS**

---

**DEPOSITIONS**

BEFORE THE

**SPECIAL COMMITTEE TO INVESTIGATE  
WHITEWATER DEVELOPMENT CORPORATION  
AND RELATED MATTERS**

ADMINISTERED BY THE

**COMMITTEE ON  
BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED FOURTH CONGRESS**

FIRST SESSION

**VOLUME X**

ON

**THE INQUIRY INTO WHETHER ADMINISTRATION  
OFFICIALS ENGAGED IN IMPROPER CONDUCT  
WITH RESPECT TO INVESTIGATIONS AND INQUIRIES  
RELATING TO WHITEWATER DEVELOPMENT  
CORPORATION, CAPITAL MANAGEMENT SERVICES,  
MADISON GUARANTY SAVINGS & LOAN,  
AND RELATED MATTERS**

OCTOBER 30, 31; NOVEMBER 1, AND 2, 1995

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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FRIDAY, OCTOBER 13, 1995

TUESDAY, OCTOBER 17, 1995

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**DEPOSITION OF LAURA JEAN LEWIS  
IN RE: S. RES. 120**

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**VOLUME I**

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**MONDAY, OCTOBER 30, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of LAURA JEAN LEWIS, called for examination pursuant to notice of deposition, at 9:40 a.m. in Room 534 of the Dirksen Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
H. CHRISTOPHER BARTOLOMUCCI, Esq.  
Majority Associate Special Counsel  
RICHARD BEN-VENISTE, Esq.  
Minority Special Counsel  
TIMOTHY P. MITCHELL, Esq.  
Democratic Professional Staff Member  
U.S. Senate  
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On behalf of the Committee.

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On behalf of the Deponent.



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## PROCEEDINGS

Whereupon,

L. JEAN LEWIS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. FORSHEY: Mr. Giuffra, before you get under way, I wanted to do this on the record. My name is Mike Forshey, and I do represent Ms. Lewis.

We have identified some additional documents that we want to produce in response to your committees's request. We have come up with the -- some additional phone records from Ms. Lewis we have here, and I'll produce to you today phone records for September through December of 1992 and August and September of 1993.

I believe the only phone records requested that are still outstanding would be August of 1992. Ms. Lewis has not yet received those; when they're received, we'll provide them on to you immediately. And here's a set of those records for use of both counsel today.

MR. GIUFFRA: Why don't you provide those

---

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to Mr. Ben-Veniste to look at?

MR. FORSHEY: That's fine.

MR. BEN-VENISTE: Why don't we have these marked as the first exhibits, they don't seem to be Bates stamped.

MR. FORSHEY: They are not Bates stamped.

MR. GIUFFRA: That's fine.

MR. FORSHEY: We have also identified some additional hand notes that Ms. Lewis took with respect to the Madison investigation. We believe that these hand notes and the information in them are reflected elsewhere in her admin file which have been produced as well or the referrals themselves; however, I don't think they've been produced in this form, and we're producing those again today as well.

Additionally on the record, we have provided a copy of the tape of Ms. Breslaw's conversation with Ms. Lewis from February 2nd, 1994. We have requested but not received the backside of that tape, it does not include any conversation between Ms. Lewis and Ms. Breslaw. But we have requested it, and we'll provide it to you as soon as

1 we receive that.

2 The last item that I --

3 MR. BEN-VENISTE: Could I ask a question  
4 about that?

5 From whom have you received it?

6 MR. FORSHEY: Office of Independent  
7 Counsel.

8 MR. BEN-VENISTE: And when you say the  
9 backside, could you be more explicit?

10 MR. FORSHEY: It's a cassette tape. It has  
11 two sides to it capable of recording on the front and  
12 the backside.

13 MR. BEN-VENISTE: And which side do we  
14 have, the one which is made first or second?

15 MR. FORSHEY: You have the conversation of  
16 Ms. Breslaw which I believe came after the front  
17 side.

18 MR. BEN-VENISTE: Thank you.

19 MR. FORSHEY: Last item I have is a  
20 memorandum from Ms. Lewis dated August 24th, 1995.  
21 This memorandum should be included in Ms. Lewis'  
22 original admin file which was in the possession of

1 the RTC.

2 When Ms. Lewis made copies of her admin  
3 file, it was prior to this date. We're just  
4 producing this for completeness and should be part of  
5 her admin file as well, and I'll give you that.

6 Of course, should anything else come to  
7 light or be identified by us, we'll produce it to you  
8 immediately.

9 MR. GIUFFRA: And, Mr. Forshey, I noticed  
10 yesterday, there was a Federal Express slip outside  
11 the banking committee's door, did you send some  
12 documents?

13 MR. FORSHEY: I sent the phone logs --

14 MR. GIUFFRA: Down on Saturday?

15 MR. FORSHEY: -- that I've produced to you  
16 today by Federal Express. I received those late  
17 Friday, and I Federal Expressed them out to you  
18 Senator D'Amato and Sarbanes both, and I believe I  
19 sent a fax to let you know and both Lance Cole know  
20 that as well.

21 MR. GIUFFRA: So the way things stand right  
22 now, we would have all of your documents either in



1 our possession here or documents you produced last  
2 week?

3 MR. FORSHEY: That's correct; to the best  
4 of our knowledge, you have everything.

5 MR. BEN-VENISTE: Let me make a suggestion  
6 with respect to the documents produced here today  
7 that obviously for purposes of identification, it  
8 would have been helpful if they were Bates stamped,  
9 that has been the process that every attorney  
10 producing records, to my knowledge, has utilized in  
11 connection with furnishing materials so that we can  
12 keep track of them.

13 I would suggest that we Bates stamp them,  
14 Bob, so that we can refer to them and that have  
15 somebody from your staff do that and then make a copy  
16 so that we can utilize these.

17 MR. FORSHEY: And let me just say, we did  
18 not Bates stamp any of our documents, that is  
19 correct. We had tried to produce these documents as  
20 quickly as possible.

21 We had our first request for these  
22 documents on October 17th, tried to respond very

1 quickly, and we did just that. I have not had the  
2 opportunity to Bates stamp them.

3 MR. GIUFFRA: So the record is clear, there  
4 have been other witnesses that have not Bates stamped  
5 documents including some government agencies.

6 MR. BEN-VENISTE: Which ones?

7 MR. GIUFFRA: I am virtually certain there  
8 are other government agencies, there are government  
9 agencies that have not Bates stamped documents.

10 MR. BEN-VENISTE: Which ones?

11 MR. GIUFFRA: I don't want to guess on the  
12 record. I have a feeling that the RTC produced some  
13 documents that were not Bates stamped.

14 MR. BEN-VENISTE: You have a feeling?

15 I have a question about the redactions that  
16 were made. While you didn't have time to Bates stamp  
17 them, obviously, the -- there have been redactions  
18 made on them --

19 MR. FORSHEY: That is correct.

20 MR. BEN-VENISTE: -- on phone records,  
21 excuse me, let me finish --

22 MR. FORSHEY: All right.

1 MR. BEN-VENISTE: -- on -- on whose  
2 direction or instructions were the types of  
3 redactions made?

4 MR. FORSHEY: The request that we received  
5 were for home phone logs reflecting telephone calls  
6 to three specific area codes; 202, 212, 501. We have  
7 provided you phone logs which reflect that.

8 The redactions do not take out any area  
9 codes, that will allow you to confirm that none of  
10 the numbers redacted came from those area codes.  
11 They were done by me.

12 MR. BEN-VENISTE: And I see that there were  
13 redactions made to the area codes requested.

14 MR. FORSHEY: I do not believe that there  
15 were redactions made to the area codes requested. If  
16 there were, please point them out to me, and we will  
17 certainly identify those numbers for you.

18 MR. BEN-VENISTE: Do you have the original  
19 unredacted records available to you?

20 MR. FORSHEY: I do not have them with me  
21 here in Washington.

22 MR. BEN-VENISTE: Is there someone who has

---

10

1 them so that we can save time?

2 MR. GIUFFRA: I'm just looking through the  
3 records, it appears that all the -- the area codes  
4 we've specified for are not redacted; the numbers are  
5 redacted, and the amount of the bill on --

6 MR. FORSHEY: The amount of the bill is  
7 redacted, that's correct. The time is left in.

8 MR. BEN-VENISTE: And on what theory was  
9 the amount of the bill redacted for each call to that  
10 area code?

11 MR. FORSHEY: We don't think that the  
12 amount Ms. Lewis had to pay on her telephone bills as  
13 a personal matter is relevant to this committee.

14 MR. BEN-VENISTE: Well, what we feel is  
15 relevant is the length of the call which is  
16 reflected.

17 MR. FORSHEY: And, Mr. Ben-Veniste, the  
18 length of the call remains in if you will look at the  
19 telephone records.

20 MR. GIUFFRA: That's right.

21 MR. BEN-VENISTE: It may be in these  
22 records, but it did not appear to be on the other

1 records we received. So if -- if there is someone in  
2 your office who has access to these, that would  
3 probably save us time.

4 If during the break you might simply phone  
5 home and inquire whether there's somebody available  
6 who might have access to those.

7 MR. FORSHEY: Mr. Ben-Veniste, if you can  
8 identify for me any requested area code that we did  
9 not provide phone number and length of call for, I  
10 will provide you with that.

11 I'm not going to provide you with any other  
12 information with respect to those phone records.

13 MR. GIUFFRA: I think it's also important  
14 to remember that the request --

15 MR. BEN-VENISTE: Would you like to do that  
16 now at the beginning --

17 MR. GIUFFRA: Can I --

18 MR. BEN-VENISTE: -- Bob, or would you want  
19 to wait?

20 MR. GIUFFRA: First of all, I think it's  
21 important to state for the record that the request  
22 that was made by the chairman and the ranking member

1 was only for phone calls to the three area codes.

2 Ms. Lewis has more promptly produced telephone  
3 records to this committee than any other witness.

4 MR. LEVIN: And I would like to add for the  
5 record, Mr. Ben-Veniste, is what Mr. Giuffra stated  
6 correct?

7 MR. BEN-VENISTE: What?

8 MR. LEVIN: That we've provided telephone  
9 logs more quickly than any other witness. You stated  
10 on national television that you made repeated  
11 requests for documents that we have known to be  
12 responsive --

13 MR. BEN-VENISTE: Is that correct?

14 MR. LEVIN: What did you say?

15 MR. BEN-VENISTE: I suggest you read the  
16 record.

17 MR. LEVIN: If you have the record, I'd  
18 like to read it.

19 MR. BEN-VENISTE: We can try to get you a  
20 copy of it.

21 MR. LEVIN: I'd appreciate it.

22 MR. BEN-VENISTE: And your statement is



1 incorrect. And with respect to Mr. Giuffra's  
2 request, the request for records with respect to this  
3 witness were made later in time than most any request  
4 made in connection with the next round of hearings,  
5 the record should so reflect.

6 MR. GIUFFRA: Let's begin.

7 My name is Robert Giuffra. I'm the chief  
8 counsel of the banking committee. To my left is  
9 Chris Bartolomucci who is an associate special  
10 counsel, he's with the majority staff.

11 Further down the table is Mr. Ben-Veniste  
12 who is the special counsel for the Democrats, and Tim  
13 Mitchell who is I believe a professional staff for  
14 the Democrats.

15 You and I haven't met.

16 MS. WILSON: Joanne Wilson.

17 MR. GIUFFRA: And you are?

18 MS. WILSON: With the democratic staff.

19 MR. GIUFFRA: Just some basic  
20 preliminaries.

21 This is a deposition that is being  
22 conducted pursuant to Senate Resolution 120. This

1 resolution establishes a special committee  
2 administered by the banking committee to conduct an  
3 investigation of Whitewater Development Corporation  
4 and other related matters including Madison  
5 Guaranty.

6 Section 1(b)(2) authorizes investigation  
7 hearings into, among other things, whether any person  
8 has improperly handled confidential RTC information  
9 relating to Madison Guaranty Savings and Loan  
10 Association or Whitewater Development Corporation;  
11 whether the Department of Justice has improperly  
12 handled RTC criminal referrals relating to Madison  
13 Guaranty or Whitewater; and, three, whether RTC  
14 employees have been improperly importune, prevented,  
15 restrained or deterred in conducting investigations  
16 or making enforcement recommendations relating to  
17 Madison Guaranty or Whitewater.

18 I would also note that section 1(b)(2)  
19 section evolves into and among other things the  
20 operations solvency and regulation of Madison  
21 Guaranty and into the activities investments and tax  
22 liability of Whitewater.

## EXAMINATION

BY MR. GIUFFRA:

Q Ms. Lewis, you understand that these issues will be the subject of your deposition here today?

A Yes, sir.

Q Now, this deposition is being conducted in advance of public hearings that will be held in November. I think it's likely that you'll be asked to testify at those public hearings.

I will be asking you questions under oath and then Mr. Ben-Veniste will be asking you questions under oath. The procedures for the conduct of the depositions are specified in Senate Resolution 120.

I see that you've chosen to be represented by counsel.

If counsel would state an appearance for the record.

MR. FORSHEY: My name is Mike Forshey with the law firm of Butler and Binion.

MR. LEVIN: Mark Levin with Landmark Legal Foundation.

BY MR. GIUFFRA:

---

16

Q Just denoting some of the high points of the resolution with regard to the conduct of depositions.

Counsel can object to the form of questions, just objections will be noted for the record. If a witness objects to a question or refuses to answer on the basis of relevance or privilege, the special committee staff may proceed with the deposition or may at that time or at a subsequent time seek a ruling on the objection from the chairman.

And if the chairman overrules the objection, the chairman may order and direct the witness to answer the question, but the special committee shall not initiate procedures leading to civil and criminal enforcement unless the witness refuses to answer the question after having been ordered and directed to answer.

So the procedure is, relevance rulings and privilege rulings, at least in the first instance, are to be made by Chairman D'Amato.

If at any time today you don't understand a

1 question that's being produced by either myself or  
2 Mr. Ben-Veniste, you know, please ask us to explain  
3 or to rephrase the question.

4 If at any time Ms. Lewis you need a break,  
5 please, let us know and we'll take a break.

6 A Thank you.

7 Q The stenographer will prepare a record of  
8 the questions and answers. This deposition will be  
9 treated as something called committee confidential  
10 until the commencement of the hearing.

11 Prior to the start of the hearings, you'll  
12 receive a letter from the committee advising you of  
13 your opportunity to review the transcript to correct  
14 any errors that may be on the record.

15 If you are called to testify at a public  
16 hearing, you'll be permitted to have a copy of your  
17 deposition transcript four days in advance.

18 All right, Ms. Lewis, or, Mr. Forshey,  
19 Mr. Levin, do you have any questions before we  
20 commence?

21 MR. LEVIN: No.

22 MR. FORSHEY: No. We have nothing.

1 BY MR. GIUFFRA:

2 Q Ms. Lewis, if you would just state your  
3 full name for the record, please?

4 A Laura Jean Lewis.

5  
6

7 Q And where are you presently employed?

8 A I'm not.

9 Q Okay. Were you employed -- you were  
10 previously employed at the Resolution Trust  
11 Corporation, am I correct?

12 A That's correct.

13 Q And when did you cease being employed at  
14 the Resolution Trust Corporation?

15 A September 29th, 1995.

16 Q And when did you start work at the RTC?

17 A July 1st, 1991.

18 Q Okay. Prior to commencing work at the RTC  
19 in July of 1991, what positions did you hold, if you  
20 could do it maybe in reverse chronological order?

21 A Certainly.

22 I was with Sunbelt Federal Savings Bank of



1 Dallas, Texas. My position immediately prior to that  
2 was that of assistant vice president, loan asset  
3 administration.

4 Q And how long were you at Sunbelt?

5 A Five and a half years in various positions  
6 and through various incarcerations.

7 Q Where was Sunbelt Federal Savings located?

8 A The Dallas general vicinity, specifically  
9 Irving, Texas and Los Colenis.

10 Q And prior to joining Sunbelt, where were  
11 you employed?

12 A Sunbelt Federal Savings had previously been  
13 Western Federal Savings.

14 Q And did you ever hold a position at Western  
15 Federal Savings?

16 A Yes.

17 Q And what position did you hold at Western  
18 Federal Savings?

19 MR. BEN-VENISTE: You're whispering, Bob, I  
20 can't hear you.

21 BY MR. GIUFFRA:

22 Q What position did you hold at Western

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20

1 Federal Savings?

2 A I had three different positions at Western  
3 Federal Savings, the most recent prior to the merger  
4 with Sunbelt would have been as the manager of what  
5 we referred to as information systems.

6 I was also the information systems  
7 officer. Prior to that, I had served as an executive  
8 secretary.

9 Q At Western Federal?

10 A At Western Savings.

11 Q Oh, excuse me.

12 A I apologize, that's my fault. Western  
13 Savings turned into Western Federal which turned into  
14 Sunbelt Federal, so they were all essentially the  
15 same entity for the period of time.

16 Q Okay. And prior to joining Western  
17 Savings, where were you employed?

18 A Sante Fe Minerals.

19 Q When did you join Western Savings?

20 A February 18th, 1986.

21 Q Okay. Why did you join the RTC in July 1,  
22 1991?

1 A The RTC initiated a contact with me through  
2 Clark Walton of the Tulsa investigations office, and  
3 I was asked if I was interested in a position as a  
4 criminal investigator, and I considered the offer and  
5 subsequently accepted it.

6 Q Okay. And were you a criminal investigator  
7 throughout the period in which you worked at the RTC?

8 A Yes, I was.

9 Q Ms. Lewis, are you aware of a document  
10 request that Chairman D'Amato and Ranking Member  
11 Sarbanes sent to your counsel several weeks back  
12 requesting certain documents that were in your  
13 possession, custody or control?

14 A Yes, sir.

15 Q And insofar as you know, have you produced  
16 all documents called for by that request?

17 A To the best of my knowledge, yes, we have.

18 Q Okay. Okay, Ms. Lewis, how did the  
19 investigation which culminated in criminal referral  
20 C0004 involving Madison Guaranty and related matters  
21 begin?

22 A It initiated through requests from RTC

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22

1 Washington staff and the director of the Tulsa  
2 office, Tulsa consolidated office, Virginia Lewis  
3 after a March 8th, 1992 article in the New York Times  
4 appeared that contained allegations that Whitewater  
5 Development had potentially caused a loss to Madison  
6 Guaranty Savings.

7 Q And who was it that first contacted you and  
8 asked you to commence this investigation into Madison  
9 Guaranty?

10 A The department head of criminal  
11 investigations or actually department head of  
12 investigations in Tulsa at that time who was Mike Van  
13 Valkenburg.

14 Q And were you contacted by anyone else at  
15 the RTC with regard to an investigation into Madison  
16 Guaranty?

17 A Clark Walton who was my coworker in  
18 criminal investigations, yes.

19 Q Okay. What steps did you take at the  
20 beginning of your investigation into Madison  
21 Guaranty?

22 A Initially, I reviewed documents on site

1 that investigations had already retrieved from the  
2 failed institution. I was specifically asked to  
3 review documents in a box that had been returned with  
4 Wyatt Adams who was the civil investigator for the  
5 RTC on Madison; that -- documents contained in that  
6 box were copies of daily records maintained by  
7 Patricia Heritage, and Mr. Van Valkenburg  
8 specifically instructed me to review those documents  
9 with regard to possible conflict with Ms. Heritage.

10 Q Now, who was Ms. Heritage?

11 A She was an attorney for the Rose Law Firm.

12 Q Now, in your house testimony, you indicate  
13 that Mr. Adams had discovered that Ms. Heritage had  
14 been involved, there was an allegation that she had  
15 been involved in fabricating Madison board minutes;  
16 is that correct?

17 A That's correct.

18 Q Could you just provide a little more for  
19 the record about that particular allegation?

20 A Mr. Adams in reviewing a report that had  
21 been prepared by Jeff Garrish of the law firm Borod  
22 and Huggins, who was retained in 1987 by the former

1 board of Madison Guaranty Savings, had included in  
2 his report an interview with Ms. Heritage in which  
3 she stated that at the directions of the former  
4 thrift president John Latham, she had, in fact,  
5 created minutes for board minutes that had actually  
6 not occurred.

7 Mr. Adams found that and immediately took  
8 it to the attention of Mr. Van Valkenburg and  
9 Mr. Iorio, who was at that time assistant director of  
10 investigations.

11 Mr. Giuffra, just as a point of  
12 clarification, Ms. Heritage at that point in time  
13 that Borod and Huggins was created was an employee of  
14 Madison Guaranty Savings.

15 Q Approximately how many records did you  
16 review of Madison in this period April 1992? Was it  
17 a warehouse full of documents?

18 A I reviewed a significant number of  
19 documents on-site in Tulsa in investigations and at a  
20 date in late April traveled to Little Rock with  
21 Mr. Adams and reviewed documents in a warehouse as  
22 well, so in both places.



1 Q And could you just describe generally for  
2 the record what you came to learn about Madison as a  
3 result of your review of these documents contained in  
4 the warehouse in Little Rock and also the documents  
5 you had at your office?

6 A The institution from what I initially found  
7 was rife with the appearance of numerous types of  
8 fraud, quite possibly criminal fraud, which prompted  
9 further investigation.

10 Q Now, did there come a time when you began  
11 to prepare a criminal referral in connection with  
12 your investigation into Madison?

13 A Yes, sir.

14 Q And when was that?

15 A I, initially, began actual draft of a  
16 referral in late July, early August 1992, I believe.

17 Q And at whose direction did you prepare this  
18 criminal referral?

19 A Mr. Iorio and myself, because we had  
20 discussed it at length, and the concurrence was that  
21 there was substantive evidence that warranted a  
22 referral.

1 Q Now, during the course of your initial  
2 investigation, did you come across any evidence  
3 indicating that Bill Clinton might be in some way  
4 involved in any of the activity under investigation?

5 A Mr. Clinton was part of the Whitewater  
6 Development Corporation partnership, and as such, I  
7 reviewed the activities of Whitewater from the  
8 standpoint of possible knowledge on the parts of all  
9 partners.

10 Q Could you just, please, describe for the  
11 record what is normally contained in a criminal  
12 referral?

13 A It's a standard format document that asks  
14 predetermined questions to a large degree based on  
15 the evidence uncovered throughout the investigation.  
16 The allegations of potential wrongdoing are outlined  
17 in the referral with a chronology of events to  
18 support the allegations and generally substantive  
19 exhibits go in with it to support the allegations  
20 contained within the document.

21 Q When was the first criminal referral you  
22 prepared in connection with Madison submitted to the

1 Department of Justice?

2 A September 2nd, 1992.

3 Q And, Ms. Lewis, let's just discuss one  
4 matter which I suspect will come up today.

5 In preparation of a criminal referral is  
6 that something that is done in confidence, am I  
7 correct?

8 A Yes, sir.

9 Q It's a confidential document? Why is it  
10 that it's a confidential document?

11 A It's a confidential document given to the  
12 U.S. Attorney and the FBI, and the confidentiality of  
13 the document is to protect those identified in the  
14 document as suspects or witnesses from any -- any  
15 premature or -- I would just have to say premature  
16 information that could shed an incorrect light prior  
17 to an investigation prosecution or declination being  
18 conducted by the appropriate authorities.

19 Q Now, in the course of preparing let's just  
20 call it the first criminal referral in connection  
21 with Madison, did you ever speak with any members of  
22 the press or advise anyone outside of the RTC of the

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1 substance of the referrals?

2 A Of the very first criminal referral?

3 Q Yes.

4 A No, sir.

5 Q Ms. Lewis, I'd like to show you a document  
6 that we received from the RTC, it bears Bates number  
7 981 through 1000. It also bears Bates numbers  
8 PLS16 -- 16S through 35S.

9 Have you seen this document before?

10 A Yes, sir.

11 Q That's a very lengthy document.

12 Approximately how much time did you spend  
13 preparing this document including investigative  
14 activities and then the actual preparation of the  
15 referral?

16 A Including the investigative time spent, it  
17 would have been from April 1992 through August 31st  
18 of 1992, which is the date that the actual referral  
19 was completed and signed.

20 Q Approximately how much of the time that you  
21 were spending at the RTC did you devote to the  
22 Madison investigation during this period April '92

1 through August 1992?

2 A The majority of the investigative time that  
3 I had available to me at that particular point was  
4 dedicated to Madison, but at that point in time, the  
5 RTC was closing its Tulsa office and relocating to  
6 Kansas City, so there was a lengthy interruption to  
7 the investigative process.

8 Q Do you recall approximately when that  
9 interruption occurred?

10 A Yes, sir, I do. Investigations in Tulsa  
11 essentially ceased normal operations around the  
12 second to third week in June of 1992 in order to  
13 prepare records to ship to Kansas City and began  
14 closing down the Tulsa office, the documentation and  
15 records were not available again until late -- I  
16 believe mid to late July 1992 as best as I recall.

17 Q Now, as you were preparing this referral,  
18 were you checking with your supervisors and advising  
19 them of the course of your investigation?

20 A Yes, sir, I kept them apprised.

21 Q And who are your supervisors?

22 A At that time I was reporting to Mr. Iorio,

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1 and then when Mr. Ausen arrived, Mr. Lee Ausen as the  
2 new head of the criminal investigative head.

3 Q And were Mr. Iorio and Mr. Ausen aware of  
4 the amount of time that you were devoting to the  
5 Madison investigation?

6 A Yes, sir.

7 Q And did they ever object to the fact that  
8 you were spending a substantial amount of your time  
9 on the Madison investigation?

10 A No, sir, I was following the standard  
11 corrective department procedures.

12 Q And what are those standard procedures that  
13 you were following in connection with the Madison  
14 investigation?

15 A When you undertake an investigation of a  
16 particular institution, you generally follow it  
17 through until such time as it was completed and the  
18 files can be closed out.

19 Q You were not someone who was supposed to be  
20 making decisions as total indication of RTC  
21 investigative resources, correct --

22 A That's correct.

1 Q -- that was something that was being done  
2 by people higher up the chain of command than  
3 yourself?

4 A Yes, sir.

5 Q So whether there were other S&Ls in  
6 Arkansas more deserving of your attention was not a  
7 decision for you to make but for people higher up the  
8 chain of command?

9 A Yes, sir, that's correct.

10 Q Just by way of background, were you  
11 assigned to handle all the S&Ls in Arkansas?

12 A Yes.

13 Q Were there other investigators who were  
14 also assigned to handle or to investigate S&Ls in  
15 Arkansas?

16 A No, sir. When I was initially hired by the  
17 RTC, it was with the firm understanding that I would  
18 be solely responsible for investigations in Arkansas,  
19 that changed at a later date when the Chicago RTC  
20 office closed and all of the Chicago shops came into  
21 the Kansas City office as well, and there was some  
22 reallocations at that point.

1 Q When approximately was that?

2 A As I can best remember, it was I think late  
3 spring, early summer 1993, yes.

4 Q Okay. Could you just describe generally  
5 for the record the suspected criminality described in  
6 criminal referral 0004?

7 A Yes, sir.

8 The evidence I uncovered appeared to show a  
9 very massive check kiting scheme or an attempt to  
10 funnel monies between several accounts within Madison  
11 Guaranty Savings all of which appeared to be  
12 controlled by Jim McDougal.

13 And in the midst of reviewing that  
14 information as well, there were other items that  
15 raised serious question with regard to major bank  
16 fraud.

17 Q And what was some of the other items that  
18 you identified that gave rise to suspicions of major  
19 bank fraud?

20 A Some of the documents that I reviewed as I  
21 was going through and looking at the demand to  
22 deposit accounts, some of the checks that we found



1 raised other questions regarding other companies and  
2 the means through which funds had gone into those  
3 other companies.

4 There were trails that had appeared  
5 throughout the duration of my initial investigation  
6 that I followed at a later date.

7 Q Now, was this referral, C0004, supported by  
8 detailed and extensive exhibits?

9 A Yes, sir.

10 Q Could you describe some of the exhibits  
11 that supported this referral?

12 A Yes, sir.

13 There were numerous checks and I believe  
14 copies of statements from the accounts of the  
15 companies identified within the body of the  
16 referral.

17 There were, as I recall, some board minute  
18 exhibits from the institution as well. There were  
19 two large red files I would have to say at least five  
20 inches thick and supporting documents that were  
21 submitted to the FBI and U.S. Attorney with a  
22 referral.

1 Q Prior to submitting this referral to the  
2 U.S. Attorney and the FBI, did you allow your  
3 supervisors to review the referral?

4 A Yes, sir.

5 Q And did they give you any feedback on their  
6 view as to the substance of the referral?

7 A Yes, sir. They concurred with the  
8 allegations.

9 Q I'd just like to focus your attention given  
10 our goal of trying to complete this rather promptly.

11 On the allegations concerning Whitewater  
12 Development Corporation, could you just briefly  
13 describe the substance of those allegations, the  
14 check kite allegations involving Whitewater  
15 Development investigation?

16 A Yes, sir.

17 Whitewater was one of several entities  
18 through which funds flowed in and out. Checks came  
19 into Whitewater denoted as loans from other  
20 McDougal-controlled companies, monies went out of  
21 Whitewater from those, quote, loan, closed quote,  
22 funds, to make payments to other financial

1 institutions on what appeared to be real estate loans  
2 to pay Whitewater's accountants.

3 There was, as I recall, approximately  
4 \$70,000 in money that went through Whitewater in the  
5 time frame designated in this referral, and there was  
6 a significant amount of that \$70,000 that was written  
7 on insufficient funds in the account.

8 Q Now, in the referral, Bill Clinton and  
9 Hillary Rodham Clinton are named as persons who stood  
10 to benefit from the criminal conduct involving  
11 Madison and Whitewater.

12 Could you describe for the record what you  
13 mean by persons who stood to benefit from the  
14 criminal conduct?

15 A Yes, sir. Whitewater Development as a  
16 partnership, such as it was, between Mr. and  
17 Mrs. McDougal and Mr. and Mrs. Clinton, I believe  
18 that any benefit that inured to Whitewater as a  
19 corporation would have subsequently benefitted its  
20 partners.

21 Q Now, at the time you prepared this  
22 referral, did you have any evidence indicating that

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1 Mr. Clinton or Mrs. Clinton had any knowledge of the  
2 wrongdoing alleged in criminal referral C0004?

3 A No, sir. And the referral does state at  
4 that time I had no knowledge, specific knowledge,  
5 that they had specific knowledge. But as they were  
6 partners in the corporation, common sense dictated  
7 that their names must appear in there as well.

8 MR. BEN-VENISTE: I'm sorry, I didn't hear  
9 the last word.

10 MR. GIUFFRA: Will the reporter read it  
11 back.

12 (The reporter read the record as requested.)

13 BY MR. GIUFFRA:

14 Q Mrs. Lewis, if you could just direct your  
15 attention to pages bearing Bates number 992, 993,  
16 994, if I could direct your attention about three  
17 quarters of the way down the page beginning  
18 Whitewater Development Corporation.

19 Could you just roughly describe for the  
20 record what is depicted under the heading Whitewater  
21 Development Corporation on those three pages  
22 beginning with --

1 A 992?

2 Q -- 992 and 993 and 994?

3 MR. BEN-VENISTE: I'm sorry, I can't hear  
4 when you speak like that.

5 MR. GIUFFRA: Could you repeat what  
6 reference you're making?

7 MR. GIUFFRA: I was referring Ms. Lewis to  
8 pages 992, 993 and 994 of criminal referral C0004.

9 MR. BEN-VENISTE: Since our Bates numbers  
10 are different than yours, could you refer to  
11 paragraph?

12 THE WITNESS: It's page 12.

13 MR. GIUFFRA: Page, 12, 13 and 14 of the  
14 referral.

15 BY MR. GIUFFRA:

16 Ms. Lewis, could you just describe for the  
17 record what is contained in page 12, 13 and 14 of the  
18 referral with regard to Whitewater Development  
19 Corporation?

20 A Yes, sir.

21 There are dates identified in here in a  
22 chronological order identifying checks that were

1 written through Whitewater, some of the deposits that  
2 came into Whitewater and the balances that existed in  
3 the accounts at the time that those checks were  
4 coming in and going out.

5 Q If I could direct your attention to page 18  
6 of this referral, there's a listing under heading  
7 witnesses, and Bill Clinton and Hillary Rodham  
8 Clinton are listed as witnesses.

9 Why did you believe that Bill Clinton and  
10 Hillary Rodham Clinton were witnesses to alleged  
11 criminal activity in connection with Madison  
12 Guaranty?

13 A I believe that Whitewater as part of the  
14 overall check kite scheme contributed a loss to the  
15 institution and as partners in Whitewater, I had a  
16 reasonable expectation that Mr. and Mrs. Clinton may  
17 have had knowledge of what Mr. McDougal was doing at  
18 Madison with regard specifically to the Whitewater  
19 account.

20 Q So that if someone is a witness at least in  
21 a referral, it's possible that upon further  
22 investigation they might, in fact, be someone who is

1 actually engaged in criminal conduct or at least have  
2 knowledge of criminal conduct?

3 MR. BEN-VENISTE: I object to that.

4 You may answer.

5 THE WITNESS: It's a possibility, yes,  
6 sir.

7 BY MR. GIUFFRA:

8 Q In fact, Ms. Lewis, I note that Jim Guy  
9 Tucker is listed as a witness in connection with this  
10 particular referral as well as Steven Smith.

11 Am I correct that both Mr. Tucker and  
12 Mr. Smith had subsequently been indicted by the  
13 independent counsel?

14 A I believe, Mr. Giuffra, Mr. Tucker has, in  
15 fact, been indicted. And I believe Mr. Smith has a  
16 guilty plea with the independent counsel at this  
17 time.

18 Q You subsequently prepared a number of other  
19 referrals in connection with Madison Guaranty; is  
20 that correct?

21 A That's correct.

22 Q When were these other referrals submitted

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1 to the U.S. Attorney's office and the FBI?

2 A October 8th, 1993.

3 Q Why did the other referrals come  
4 approximately a year after the first referral? Why  
5 did you submit them to the FBI and U.S. Attorney  
6 approximately a year later?

7 A The investigation had not been concluded  
8 with the submission of the first referral and because  
9 of what transpired with the first referral, after a  
10 certain period of time, Mr. Iorio directed that I was  
11 to continue with the investigation and as an end  
12 result to that, there were nine additional referrals  
13 generated and then submitted.

14 Q Now, this first referral, C0004, also  
15 refers as we've also noted Jim Guy Tucker, and also  
16 it also references former Senator Fulbright.

17 Did you ever discuss with Mr. Iorio in the  
18 course of preparing this referral the fact that it  
19 impacted upon prominent figures in the Arkansas  
20 political circles?

21 A Yes, sir, from the standpoint of  
22 sensitivity, I believe it was necessary.



1 Q Did you take any steps to try to maintain  
2 the even more -- strike that question.

3 Did you discuss with Mr. Iorio or any of  
4 your other supervisors at the RTC the fact that this  
5 referral impacted upon activities of prominent  
6 members of Arkansas political circles?

7 A Would you restate your question,  
8 Mr. Giuffra?

9 Q Yes. Let me restate that question.

10 A Thank you.

11 Q Did you discuss with any of your  
12 supervisors at the RTC the fact that persons who were  
13 named as witnesses in this referral included  
14 prominent political figures in Arkansas?

15 A Yes, sir.

16 Q And could you describe, in general, the  
17 substance of those conversations that you had with  
18 your supervisors with regard to the fact that this  
19 referral impacted upon the activities of persons who  
20 were prominent in Arkansas political circles?

21 MR. BEN-VENISTE: Are we back to the '92  
22 referral just for purposes of clarity?

1 MR. GIUFFRA: Correct.

2 THE WITNESS: I don't recall the specifics  
3 of the particular conversation, but I do recall a  
4 sense of discussing with him that because of the  
5 sensitivity of some of the visibility of the  
6 individuals involved, he needed to be aware of it.

7 BY MR. GIUFFRA:

8 Q Do you know whether Mr. Iorio advised  
9 persons higher up the RTC chain of command of the  
10 fact that this referral impacted upon activities of  
11 prominent persons in Arkansas political circles?

12 A Yes, sir, he did.

13 Q Do you know who Mr. Iorio might have spoken  
14 to at the RTC with regard to the fact that this  
15 referral impacted upon the activities of prominent  
16 persons in Arkansas political circles?

17 A Yes, sir.

18 MR. BEN-VENISTE: The question is, who he  
19 might have spoken to?

20 BY MR. GIUFFRA:

21 Q Who did he speak to --

22 A Yes, sir.

1 Q Who did Mr. Iorio speak to?

2 A He spoke with James Thompson,  
3 vice president of Kansas City region. He advised  
4 James Dudine who is the national director of RTC  
5 investigations.

6 Q Did Mr. Iorio ever advise you of the  
7 substance of his discussions with either Mr. Thompson  
8 or Mr. Dudine, and it's D-U-D-I-N-E, I believe?

9 A Dudine. Yes, sir. He advised me that he  
10 had spoken with him, but I don't recall him sharing  
11 the contents or the specifics of those conversations.

12 Q Were you ever advised by any of your  
13 supervisors at the RTC that you were spending too  
14 much time investigating suspected criminal activity  
15 at Madison?

16 A No, sir.

17 Q Now, after you submitted criminal referrals  
18 C0004, did you take any further steps with regard to  
19 that referral?

20 A Yes.

21 Q Could you just describe generally for the  
22 record what steps you took with regard to that

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1 referral?

2 A I placed it in a pending file for further  
3 follow-up at such time as I might receive a response  
4 regarding a declination or the intent to open  
5 investigation.

6 When I did not receive a response after a  
7 specific period of time, approximately 90 days, I  
8 contacted the FBI to find out the status of the  
9 referral, and at that point discussed it with  
10 Mr. Iorio who instructed me to put it in another  
11 pending file and let's see if there is a response  
12 hopefully forthcoming by May 1st.

13 There was no response, and at that point, I  
14 undertook to determine the status of the referral  
15 again.

16 Q That's May 1st, 1993?

17 A That's correct.

18 Q What is the normal period in which an RTC  
19 criminal investigator will receive a response with  
20 regard to the submission of a criminal referral?

21 A It has been my experience in my  
22 investigations anywhere from 30 to 60 days.

1 Q Prior to submitting criminal referral  
2 C0004, how many other criminal referrals have you  
3 submitted either to the U.S. Attorney's office or the  
4 FBI?

5 A I don't recall the exact number,  
6 Mr. Giuffra, I'm sorry.

7 Q Do you have a rough estimate?

8 A I would estimate the number to be between  
9 10 and 12.

10 Q And do you recall, again as an estimate,  
11 what U.S. Attorney's offices you would have submitted  
12 those referrals to?

13 A Yes, sir, they would have gone to the U.S.  
14 Attorney in either the Eastern or the Western  
15 District of Arkansas.

16 Q Do you recall the name of the institutions  
17 in which -- in which those -- strike that.

18 The other criminal referrals that you  
19 prepared related to the activities at what  
20 institutions in Arkansas?

21 A First American Savings of Fort Smith  
22 Arkansas, First Savings of Little Rock, First Federal

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1 Savings of Paragould, Arkansas.

2 Q What response did you get in connection  
3 with any criminal referrals you submitted to the U.S.  
4 Attorney's Office in connection with first American  
5 Savings?

6 A An investigation was opened.

7 Q And is First Savings of Little Rock the  
8 other?

9 A Yes, sir, that's correct.

10 Q And what was the response that you received  
11 in connection with that criminal referral?

12 A I was advised that the referral had been  
13 given to the local district attorney and an  
14 investigation was underway.

15 Q And with regard to any criminal referrals  
16 you submitted in connection with First Savings of --  
17 is it Parago?

18 A Paragould, it's P-A-R-A-G-O-U-L-D.

19 Q Excuse me. What sort of response did you  
20 receive in connection with that criminal referral?

21 A There was an investigation opened.

22 Q This period of 30 to 60 days that you had

1 testified to previously, was that a similar response  
2 time that other criminal investigators in either the  
3 Kansas City or Tulsa office had in connection with  
4 the criminal referrals that they submitted to various  
5 U.S. Attorney's Offices?

6 A Would you repeat that, I'm sorry?

7 Q Let me strike the question.

8 When you said that 30 to 60 days was the  
9 normal period in which a criminal investigator  
10 received a response with regard to the status of a  
11 criminal referral, what was -- what's the basis for  
12 your 30- to 60-day estimate of the time of the  
13 response -- of the response time, speaking with other  
14 investigators?

15 A No, sir. Those are based on my own  
16 personal experiences with regard to the referrals I  
17 had submitted on the other institutions. I received  
18 written responses from the FBI advising that the  
19 U.S. Attorney had determined to open a case.

20 Q Now, you indicated that Mr. Iorio advised  
21 you to put criminal referral C0004 in another pending  
22 file.

1 What did he mean by that, resubmit the  
2 referral?

3 A No. He just meant for me to put it in what  
4 I generally refer to as a tickler file or a reminder  
5 file so that I could continue with whatever  
6 investigation I had pending next and then at a  
7 certain point in time as I'm going through my tickler  
8 file to remember to check the status of that  
9 particular matter again.

10 Q During this period September 2, 1992  
11 through May 1, 1993, were you working on other  
12 criminal referrals?

13 A Between 1992 and 1993?

14 Q Yes, September through May.

15 A Yes, I'm sure I was.

16 Q Do you recall what those criminal referrals  
17 related to?

18 A I was working on other investigations at  
19 that point. I would have to refresh my memory as to  
20 the specifics.

21 Q Did you continue to investigate possible  
22 criminal activity at Madison?



1 A After the first referral was submitted?

2 Q Yes, sir.

3 A No, sir, not again until May of 1993.

4 Q Why did you not continue to investigate  
5 possible criminal activity at Madison between  
6 September '92 and May 1993?

7 A It was my usual practice having submitted a  
8 referral to the U.S. Attorney's Office to wait for a  
9 response to a preliminary referral to see if there  
10 was any interest before continuing to waste either  
11 their time or anyone else's.

12 Q Now, did there come a time in the latter  
13 part of 1992 when you contacted someone in either the  
14 FBI or the U.S. Attorney's Office in Little Rock to  
15 determine the status of criminal referral C0004?

16 A Yes, sir.

17 Q And do you recall approximately what time  
18 you contacted someone in either the FBI or the U.S.  
19 Attorney's Office in Little Rock?

20 A I believe it was in early December of 1992,  
21 I contacted Steve Irons with the FBI in Little Rock.

22 Q Now, who is Steve Irons?

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1 A As best I recall, Mr. Irons is the  
2 supervisor -- supervisory special agent of the white  
3 collar crime unit at the Little Rock FBI office.

4 Q Did you ever have any prior dealings with  
5 Mr. Irons in connection with your activities at the  
6 RTC?

7 A Yes, sir.

8 Q Could you describe just briefly for the  
9 record what your prior dealings with Mr. Irons had  
10 related to?

11 A Certainly.

12 Mr. Irons and I dealt extensively on the  
13 ongoing investigation by the FBI of First Federal  
14 Savings of Paragould.

15 Q And was the investigation into First  
16 Federal Savings of Paragould ongoing in December  
17 1992?

18 A Yes, it was.

19 Q Do you recall the precise circumstances in  
20 which you contacted Mr. Irons in December of 1992  
21 with regard to the status of criminal referral C0004?

22 A I contacted him and asked him if there was

1 a decision as to whether or not the Madison referral  
2 had been initially looked at and would it be  
3 declined, would it be prosecuted. I just wanted to  
4 know the status.

5 Q And it was important to you -- for you to  
6 know the status then because you would have to make a  
7 judgment as to whether you could continue to  
8 investigate Madison?

9 A Yes, sir.

10 Q And what did Mr. Irons say to you about the  
11 status of criminal referral C0004?

12 A Mr. Irons advised me that he was -- he was  
13 not aware of any definitive status of the referral,  
14 that he did not know at that point if the U.S.  
15 Attorney intended to prosecute or decline, but that  
16 he believed it was a prosecutable case of check  
17 kiting.

18 Q Do you recall whether he said anything else  
19 to you about the status of criminal referral C0004?

20 A Yes, sir, he said it was political.

21 Q Did he say anything more than it's  
22 political?

1 A If memory serves correctly, he identified  
2 it as a political hot potato, and that that would be  
3 a problem.

4 Q Did he say anything more about why the fact  
5 that this was a political hot potato might cause  
6 problems in connection with the processing of the  
7 referral?

8 A I don't recall all the specifics of the  
9 conversation, it occurs to me that he made a  
10 reference to Mr. McDougal's previous trial, and he  
11 did -- he did state and I do recall that Mr. Irons  
12 told me if they had that initial referral during the  
13 first McDougal trial, it might have been very helpful  
14 to their case.

15 Q Did you contact Mr. Irons in December 1992  
16 specifically to discuss criminal referral C0004 or  
17 did C0004 come up in the course of the discussion you  
18 were having about other matters?

19 A It seems to me that when I contacted him,  
20 it was for the purpose of determining the status, but  
21 as we had the ongoing Paragould investigations, it's  
22 very likely we talked about that too.

1 Q Do you recall anything more about your  
2 conversation with Mr. Irons in December 1992?

3 A No, no specifics.

4 Q Did you advise Mr. Iorio of your  
5 conversation with Mr. Irons?

6 A Yes.

7 Q And what did Mr. Iorio advise you after you  
8 advised him of what Mr. Irons had said?

9 A As I recall the gist of the conversation  
10 was be patient and let's wait and see if we receive a  
11 response.

12 Q Now, as of this point, Bill Clinton had  
13 been elected president, correct --

14 A Yes, sir.

15 Q -- in December 1992?

16 A Correct.

17 Q And as of this point, had you ever spoken  
18 to any member of the press about criminal referral  
19 C0004?

20 A No, sir.

21 Q Had you ever spoken to anyone outside of  
22 the RTC about criminal referral C0004 as of December

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1 '92?

2 A No, sir, not that I recall.

3 MR. FORSHEY: And, Mr. Giuffra, just to  
4 interject, I think she indicated she talked to  
5 Mr. Irons, he would be outside of the RTC.

6 THE WITNESS: Thank you for that  
7 clarification.

8 BY MR. GIUFFRA:

9 Q Now, did you subsequently receive any sort  
10 of written acknowledgment from the FBI with regard to  
11 criminal referral C0004?

12 A Yes, sir.

13 Q And could you please just briefly describe  
14 that acknowledgment?

15 A Yes, sir.

16 I received a letter from special agent in  
17 charge Don Pettus from the Little Rock FBI office, it  
18 was an unusual letter in that it simply stated they  
19 were in receipt of the referral and that further  
20 inquiries should be directed to Mr. Mac -- Floyd Mac  
21 Dodson with the U.S. Attorney's Office.

22 Q Now, why was this letter unusual?

1 A Any other correspondence I had received  
2 from the FBI regarding referral specifically stated  
3 whether it would be declined or whether they intended  
4 to open an investigation. I had never received a  
5 letter simply acknowledging receipt before.

6 Q Did you discuss with anyone at the RTC the  
7 fact that you had not received -- strike that.

8 Let me show you a document which bears  
9 Bates number MC0845.

10 A Yes, sir.

11 Q Is this the acknowledgment that you  
12 received from the Federal Bureau of Investigation  
13 with regard to the status of criminal referral C0004?

14 A Yes, sir, it appears to be a copy of that  
15 document.

16 Q Did you discuss with anyone at the RTC the  
17 fact that you found this response that you received  
18 from the FBI to be someone unusual?

19 A Yes.

20 Q Who did you speak with at the RTC about the  
21 fact that you believe this response to be unusual?

22 A I recall having a conversation with

1 Mr. Ausen about that document.

2 Q And what do you recall about the  
3 conversation you had with Mr. Ausen?

4 A That it was different from any other  
5 response that we had received before, and it struck  
6 me as peculiar, and they made no reference as to  
7 whether or not they intended to open an investigation  
8 or decline a referral.

9 Q After receiving this letter which is dated  
10 December 15, 1992, did you take any other action with  
11 regard to criminal referral C0004?

12 A Yes.

13 Q And what action was that that you took?

14 A Shortly after I received that response, the  
15 RTC received a Freedom of Information Act request  
16 regarding Governor Jim Guy Tucker, and I was asked in  
17 particular to respond to that FOIA request.

18 I was concerned about the potential release  
19 of records regarding Mr. Tucker that might impact  
20 0004 and was concerned about actually releasing those  
21 records, and I contacted Mr. Dodson with the U.S.  
22 Attorney's Office to discuss the matter with him.



1 Q Do you recall approximately what time you  
2 contacted Mr. Dodson?

3 A It seems to me that it was during the first  
4 or second week of January of 1993.

5 Q Let me show you a document which bears  
6 Bates number MC0832, 0833.

7 If you could just take a look at this  
8 document.

9 (Witness reviews the document.)

10 THE WITNESS: Yes, sir.

11 BY MR. GIUFFRA:

12 Q Now, this is a memorandum that you wrote to  
13 your criminal admin file with regard to this  
14 conversation that you had with Floyd Mac Dodson  
15 regarding the FOIA request; is that correct?

16 A Yes, sir.

17 Q Was it your normal practice to write memos  
18 to your criminal admin file with regard to  
19 communications that occurred in the course of an  
20 investigation?

21 A Yes, sir.

22 Q And that was not just something -- that was

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1 not a practice that you followed in connection with  
2 the Madison investigation, only with the Madison  
3 investigation?

4 A No, sir, that was a general practice.

5 Q Just one quick point of clarification --

6 A Certainly.

7 Q -- the date listed here is January 7, 1992;  
8 is that a typo?

9 A Yes, sir, it should have been 1993.

10 Q I made a mistake like that last week  
11 actually.

12 A This late in the year?

13 Q And, Ms. Lewis, what do you recall about  
14 your conversation with Mr. Dodson regarding the FOIA  
15 request?

16 A Mr. Dodson appeared to be as nonspecific as  
17 he could with regard to the referral.

18 Q Do you recall anything that he said to you  
19 about this referral, the status of the referral?

20 A He said he wasn't sure that it was still  
21 even in the U.S. Attorney's Office in the Eastern  
22 District of Arkansas.

1 Q Did Mr. Dodson give you any reason for why  
2 he believed that the referral might no longer be in  
3 the U.S. Attorney's Office in Arkansas?

4 A No, sir, he just told me he wasn't sure it  
5 was still there.

6 Q Did he say anything more about the status  
7 of the referral?

8 A He identified it as a political hot potato  
9 and indicated and discussed some previous press  
10 matters from the previous McDougal trial.

11 Q Did Mr. Dodson indicate to you why he  
12 believed this referral to be a political hot potato?

13 A May I review my document?

14 Q Certainly.

15 A Thank you.

16 (Witness reviews the document.)

17 THE WITNESS: In response to your question,  
18 Mr. Giuffra, it would appear that Mr. Dodson believed  
19 it was a political hot potato potential because of  
20 the prior acquittal of Mr. McDougal.

21 BY MR. GIUFFRA:

22 Q Did Mr. Dodson indicate to you whether any

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1 persons in the U.S. Attorney's Office in Little Rock  
2 had reviewed your referral?

3 A Yes, sir. He told me that he had seen and  
4 reviewed the referral.

5 Q Did he indicate to you whether he thought  
6 that further investigation was warranted with regard  
7 to the allegations contained in C0004?

8 A He said he thought it was a prosecutable  
9 case.

10 Q Did he indicate to you whether he had --  
11 strike that.

12 Did he indicate to you whether any other  
13 members of the U.S. Attorney's Office had reviewed  
14 the referral?

15 A He did not so state, but led me through the  
16 course of the discussion to understand that Mr. Banks  
17 had reviewed the referral.

18 Q Did Mr. Dodson -- Mr. Banks was the U.S.  
19 Attorney at the time?

20 A That's correct.

21 Q Did Mr. Dodson indicate to you Mr. Banks'  
22 view of whether this was a referral that deserved

1 further investigation?

2 A Yes, sir, he indicated that Mr. Banks felt  
3 there might have been a conflict due to the previous  
4 trial of Mr. McDougal to go forward with any  
5 additional prosecution.

6 Q So it was your understanding that Mr. Banks  
7 was concerned about moving forward with the case  
8 because of the fact that Mr. McDougal had been  
9 acquitted in his prior trial?

10 A Yes, sir.

11 Q There's a discussion in your memorandum  
12 about -- of January 7, 1992 about a special attorney  
13 being sent to Little Rock from Washington to handle  
14 any investigation of prosecution at a federal level.

15 Is that something that Mr. Dodson told you?

16 A Yes. As I recall, Mr. Dodson's comments  
17 was that if there were to be a further prosecution,  
18 it would probably be done by a prosecutor from  
19 Washington rather than someone there at the local  
20 level.

21 Q Did Mr. Dodson indicate to you in any way  
22 that he or anyone else in his office had contacted

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1 anyone at main justice in Washington about criminal  
2 referral C0004?

3 A No, sir.

4 Q Do you recall asking Mr. Dodson whether he  
5 or anyone in his office had contacted anyone at main  
6 justice about criminal referral C0004?

7 A No, sir.

8 Q Approximately how long was your  
9 conversation with Mr. Dodson?

10 A I don't recall the exact time, but I do  
11 recall that it was not a terribly lengthy  
12 conversation.

13 Q Did you have other prior dealings with --  
14 strike that.

15 Had you previously dealt with Mr. Dodson in  
16 connection with your work as an RTC criminal  
17 investigator?

18 A I believe I met Mr. Dodson on a prior  
19 occasion while in Little Rock at the U.S. Attorney's  
20 Office.

21 Q Do you know a man named Fletcher Jackson?

22 A Yes.

1 Q Who was Fletcher Jackson?

2 A Mr. Jackson's an Assistant U.S. Attorney  
3 with the Eastern District of Arkansas in the U. S.  
4 Attorney's Office.

5 Q Other than in connection with any criminal  
6 referral relating to Madison, have you previously  
7 worked with Mr. Jackson?

8 A No, sir.

9 Q Following your conversation with  
10 Mr. Dodson, did you report to Mr. Iorio?

11 A I believe I copied him on my admin -- or  
12 my -- the memo that I wrote to my admin file.

13 Q Following your conversation with  
14 Mr. Dodson, did you take any other action -- what was  
15 the next time you took action with regard to criminal  
16 referral C0004?

17 A It would have been in May of 1993 when, as  
18 I recall, I sent a letter -- excuse me. I made a  
19 phone call to the U.S. Attorney's Office to once  
20 again try to determine the status of the referral.

21 Q Do you recall who you spoke to at the U.S.  
22 Attorney's Office in May of 1993?

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1 A As I recall, I made the call to  
2 Mr. Roddey's office, Bob Roddey's office, but I don't  
3 believe Mr. Roddey was there.

4 Q Who is Mr. Bob Roddey?

5 A Bob Roddey was another Assistant United  
6 States Attorney in that office.

7 Q Did you speak to someone else in the U.S.  
8 Attorney's Office?

9 A I believe I spoke to his secretary.

10 Q Okay. And did you just leave a message  
11 that he should contact you -- contact you?

12 A Yes, sir, and I recall telling his  
13 secretary what I was calling about.

14 Q And that would be criminal referral C0004?

15 A Yes, sir.

16 Q Do you recall anything else you might have  
17 said to the secretary?

18 A I asked her I believe at that point if  
19 Mr. Banks was still with the U.S. Attorney's Office  
20 or if he had, in fact, left and whether or not  
21 Mr. Dodson had, in fact, remained or left at that  
22 point.



1 Q Do you recall anything more about the  
2 conversation that you had with Mr. Roddey's secretary  
3 in May of 1993?

4 A No, I don't, not off the top of my head.

5 Q Did you speak to anyone else at the U.S.  
6 Attorney's Office in May of 1993 about criminal  
7 referral C0004?

8 A Not that I remember.

9 Q Did Mr. Roddey return the phone call that  
10 you had left for him in May of 1993?

11 A Mr. Roddey did not return the call, but if  
12 I recall correctly, his secretary did.

13 Q And what did Mr. Roddey's secretary say to  
14 you when she spoke -- when she called you back?

15 A She indicated that Bob had made the comment  
16 he thought the referral had been sent to main justice  
17 in Washington and that we would never hear about it  
18 again.

19 Q Do you recall the name of Mr. Roddey's  
20 secretary?

21 A Her first name is Laura, L-A-U-R-A. I  
22 don't recall her last name.

1 Q Was she someone you had previously dealt  
2 with?

3 A Yes, sir.

4 Q You had previously dealt with Mr. Roddey?

5 A Yes.

6 Q What was the context in which you had  
7 previously dealt with Mr. Roddey?

8 A An institution called Capital Federal  
9 Savings.

10 MR. FORSHEY: Mr. Giuffra, can we take a  
11 short break?

12 MR. GIUFFRA: Sure.

13 MR. FORSHEY: Thank you.

14 (A brief recess was taken.)

15 BY MR. GIUFFRA:

16 Q Ms. Lewis, I'd like to show you a  
17 memorandum that you wrote dated May 3, 1993. This  
18 memorandum bears the Bates number JJ0466.

19 (Witness reviews the document.)

20 THE WITNESS: Yes, sir.

21 BY MR. GIUFFRA:

22 Q Okay. Now, if I could direct your

1 attention to the first paragraph of this memorandum,  
2 you indicate, I was advised by AUSA Bob Roddey on an  
3 unofficial basis that Banks had forwarded the Madison  
4 referral to justice in Washington, D.C. almost  
5 immediately after receiving it last September; Roddey  
6 also added that Banks had taken this action as the  
7 referral was, quote, unquote, politically hot.

8 And you indicate that this conversation  
9 occurred in May -- March, excuse me, of 1993?

10 A May.

11 Q Is this a typo or does it refresh your  
12 recollection that you spoke to Mr. Roddey in March of  
13 1993?

14 A I believe that is a typo. And having seen  
15 this document, it does refresh my memory that, yes, I  
16 did have a conversation with Bob Roddey, but it would  
17 have been in May around the same time I spoke with  
18 his secretary.

19 Q Now, you indicate in paragraph 3 of this  
20 memorandum of May 3, 1993 that Mr. Roddey's secretary  
21 called you back and advised you that no record of  
22 that referral showed up in their computer system.

1 Do you recall anything more about your  
2 conversation with Mr. Roddey's secretary?

3 A Yes, sir, aside from telling me that she  
4 could not find it in the computer system, she advised  
5 me that Mr. Dodson had left the U.S. Attorney's  
6 Office along with Mr. Banks and told me that Mr.  
7 Roddey had made the comment to her that we'd probably  
8 never hear about the referral again.

9 Q Just as a point of clarification, the  
10 reference in the first paragraph of this May 3rd,  
11 1993 letter to March 1993, it's possible you might  
12 have spoken to Roddey in March of 1993, or are you  
13 fairly certain that it occurred in May of 1993?

14 A It's possible it was in March, but my best  
15 recollection at this point is that the conversations  
16 took place in roughly the same time frame with  
17 Mr. Roddey and his secretary.

18 Q Now, after speaking with Mr. Roddey's  
19 secretary, did you take any action?

20 A Yes, sir, I did.

21 Q And what action did you take?

22 A I advised Mr. Ausen and Mr. Iorio of the

1 conversation and, at their instruction, drafted a  
2 letter to then-acting U.S. Attorney Richard Pence to  
3 inquire as to the status of the referral.

4 Q And did you subsequently receive a response  
5 from Mr. Pence?

6 A Yes, sir.

7 Q I'll show you a document which bears Bates  
8 Number 31, that is Department of Justice, it's dated  
9 May 10, 1993.

10 (Witness reviews the document.)

11 THE WITNESS: Yes, sir.

12 BY MR. GIUFFRA:

13 Q What was the substance of Mr. Pence's  
14 response to your inquiry of May 4th, 1993?

15 A He advised me that he was in receipt of my  
16 letter, and that Mr. Banks while a U.S. Attorney had  
17 decided that his office had a conflict of interest  
18 conducting further investigation concerning the  
19 matter; that -- that office had previously prosecuted  
20 Mr. McDougal which had resulted in not guilty  
21 verdicts, and that previous allegations had suggested  
22 politically motivated prosecution were made during

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1 and after the trial. He also pointed out that those  
2 allegations were groundless.

3 Q These are allegations Mr. McDougal made  
4 about the prosecution of Mr. McDougal at his prior  
5 trial?

6 A It would appear that way, yes, sir.

7 Q Now, this letter indicates that you should  
8 contact someone called the Office of Legal Counsel  
9 Executive Office of U.S. Attorneys.

10 Did there come a time in which you did  
11 contact the Office of Legal Counsel Executive Office  
12 of U.S. Attorneys?

13 A Yes, sir.

14 Q And when was that?

15 A I don't recall the specific date, but I  
16 believe it was documented in my file. It would have  
17 been shortly after I received the letter from  
18 Mr. Pence.

19 Q Let me show you a document which bears  
20 Bates number RN217 and see if that refreshes your  
21 recollection.

22 (Witness reviews the document.)

1 THE WITNESS: Yes, sir, I recall the  
2 document.

3 BY MR. GIUFFRA:

4 Q Now, you spoke to a man named Daniel Kofsky  
5 and it says here Acting Assistant General.

6 A No, sir, I did not converse with  
7 Mr. Kofsky, I put a call into that office and spoke  
8 with Beon Mitchell of that office.

9 Q And Ms. Mitchell advised you to send a copy  
10 of the referral to Daniel Kofsky?

11 A Yes, sir, that was the name she provided me  
12 with.

13 Q Now, did you have any subsequent  
14 conversations with anyone from the Executive Office  
15 of U.S. Attorneys on that day?

16 A Yes, sir.

17 Q And who did you speak to?

18 A Donna Henneman.

19 Q And who is Donna Henneman?

20 A She identified herself as the ethics  
21 program manager for the Office of Legal Counsel.

22 Q And what did Mrs. -- Ms. Henneman say to

1 you about criminal referral C0004?

2 A That she recalled that it was the one that,  
3 quote, involved the president and his wife, closed  
4 quote, I believe that was accurate -- quote, oh, the  
5 one involving the president and his wife, closed  
6 quote.

7 Q Now, did -- did Ms. Henneman contact you  
8 the next day about the status of this referral?

9 A I recall that Ms. Henneman did contact me  
10 again in very short order, but I don't recall that it  
11 was the next day.

12 Q Okay. What did Ms. Henneman say to you  
13 when she again spoke to you?

14 A She indicated that the referral had arrived  
15 as a special report for the attention of the attorney  
16 general, and that the referral had been submitted to  
17 that office the quote was because of political  
18 ramifications and political motivations, closed  
19 quote, and indicated that the referrals were not  
20 actually prosecuted out of that office. And then she  
21 informed me that she thought that the referral had  
22 been declined.



1 Q Did you take any action upon -- strike  
2 that.

3 After you had this conversation with  
4 Ms. Henneman, did you take any action with regard to  
5 criminal referral C0004?

6 A I remained in touch with Ms. Henneman to  
7 try and determine the final status of the referral.  
8 She did not have the status.

9 Q So you had a number of conversations with  
10 Ms. Henneman?

11 A Yes, sir, I did, because we had conflicted  
12 information. She indicated it had been declined and,  
13 to my knowledge, it had not been.

14 Q Let me show you a document which bears  
15 Bates number TS0647. It's a memorandum with an  
16 E-mail from you to Mr. Iorio and Mr. Ausen.

17 (Witness reviews the document.)

18 THE WITNESS: Yes, sir.

19 BY MR. GIUFFRA:

20 Q Okay. Now, the first paragraph of this  
21 memorandum refers to a highly reliable and  
22 confidential source.

1 Who is the highly confidential -- who is  
2 the highly reliable and confidential source referred  
3 to in the memorandum?

4 A Mr. Roddey.

5 Q Okay. Between May 13 and June 29,  
6 approximately how many phone calls did you have with  
7 Ms. Henneman at the Department of Justice?

8 A I think I documented that number of calls  
9 in one of my E-mails, but to the best of my  
10 recollection --

11 Q You can give us an approximate number.

12 A Between eight and a dozen calls.

13 Q And did she return the calls to you?

14 A Yes, sir.

15 Q And what was the substance of the  
16 communications that you had with Ms. Henneman?

17 A She was updating me on her ongoing efforts  
18 to try and determine the final status of the  
19 referral.

20 Q And what did she say about her ongoing  
21 efforts to ascertain the status of the referral  
22 C0004?

1 A She was having a hard time finding it.

2 Q Did there come a time when she actually  
3 located the referral?

4 A Yes, sir.

5 Q And when was that?

6 A I don't recall the exact date, but she did  
7 call me and tell me that she had located the referral  
8 within the criminal fraud section at the Justice  
9 Department with a paralegal who's name is Audrey  
10 Word.

11 Q It's W-O-R-D?

12 A I believe so.

13 Q And what was Audrey Word doing with this  
14 criminal referral?

15 A Ms. Word had managed to locate it within  
16 her department and advised Ms. Henneman that she had  
17 found it and subsequently returned it to  
18 Ms. Henneman.

19 Q Did Ms. Henneman advise you as to where  
20 Ms. Word had found the referral?

21 A She indicated that it had been found with  
22 one of the attorneys in the department, but she did

1 not identify who.

2 Q Have you ever learned who the attorney was  
3 who had this referral in their possession?

4 A Not specifically, but I did learn during  
5 the recent hearings that an attorney named Mark  
6 McDougal prepared a memo regarding the referral.

7 Q Now, in your E-mail of June 29 -- let me  
8 strike that.

9 After the -- after the referral was located  
10 in the fraud section, did Ms. Henneman advise you of  
11 any further action that was taken with regard to the  
12 referral?

13 A After which date?

14 Q At some point according to your house  
15 testimony in late June of '93, the referral was  
16 located in the fraud section of the criminal  
17 division; correct?

18 A Correct.

19 Q Okay. And then was the referral returned  
20 to the executive office for U.S. Attorneys for  
21 review?

22 A Yes, sir, it was.

1 Q Okay. What do you know about the process  
2 by which -- strike that.

3 Do you know whether the referral was  
4 actually reviewed by anyone in the executive office  
5 for U.S. Attorneys?

6 A Yes, sir, Ms. Henneman indicated that it  
7 had been -- would be reviewed, I believe the first  
8 conversation by a Mr. Frazier or a Mr. Moscato in  
9 that office.

10 Q Do you know whether Mr. Frazier or  
11 Mr. Moscato actually reviewed the criminal referral?

12 A I recall a later conversation with  
13 Ms. Henneman in which she indicated Mr. Frazier had  
14 reviewed the referral.

15 Q And did Ms. Henneman advise you -- strike  
16 that.

17 Were you ever advised of the results of  
18 this review of the referral?

19 A Yes, sir.

20 Q Who advised you of the results of  
21 Mr. Frazier results of the review of the referral?

22 A Ms. Henneman.

1 Q And what did she tell you about  
2 Mr. Frazier's review of the referral?

3 A That he, Ms. Westbrooke, Ms. Henneman's  
4 supervisor, had reviewed the referral and determined  
5 there was no basis of conflict for interest for the  
6 U.S. Attorney, and no reason to recuse, and that it  
7 would be returned to the U.S. Attorney's Office in  
8 Little Rock.

9 Q During the course of your conversations  
10 with Ms. Henneman, did you keep your supervisors,  
11 Mr. Iorio and Mr. Ausen, advised as to how you were  
12 proceeding?

13 A Yes, sir.

14 Q All right. Now, in the E-mail of June 29,  
15 1993, you refer to this highly reliable and  
16 confidential source who you testified was  
17 Mr. Roddey.

18 Between May and June and the end of June  
19 1993, did you have a number of conversations with  
20 Mr. Roddey about the status of criminal referral  
21 C0004?

22 A No, not that I recall.

1 Q So this was the first contact you had from  
2 Mr. Roddey subsequent to the communication you had  
3 with him in May or approximately in May?

4 A I don't recall.

5 Q Okay. Did Mr. Roddey call you or did you  
6 call Mr. Roddey and he returned the phone call?

7 Let me show you.

8 A Thank you.

9 On this particular instance, Mr. Roddey  
10 contacted me.

11 Q Do you know why Mr. Roddey contacted you?

12 A Mr. Roddey and I had an ongoing case  
13 regarding Capital Federal Savings that we were  
14 working and did call from time to time regarding  
15 that, but my E-mail indicates that he called  
16 specifically to advise me that 0004 had been returned  
17 to the U.S. Attorney's Office in Little Rock.

18 Q Is it possible that during some of your  
19 other communications with Mr. Roddey involving this  
20 Capital Federal case that you had also spoken to him  
21 about the Madison case?

22 A Yes, sir.

1 Q Now, in your house testimony, you indicated  
2 that you learned that the acting U.S. Attorney  
3 intended to quote, let it sit, closed quote, that's  
4 the criminal referral until the new U.S. designated  
5 attorney Paula Casey took office.

6 Who advised you that the acting U.S.  
7 Attorney intended to let the criminal referral sit?

8 A Mr. Roddey.

9 Q Do you recall anything more about what  
10 Mr. Roddey said to you about how the acting U.S.  
11 Attorney intended to handle criminal referral C0004?

12 A Mr. Roddey indicated that there was some  
13 displeasure on the part of Mr. Pence that it had been  
14 returned to the U.S. Attorney's Office, and that it  
15 might appear to be a case of sour grapes,  
16 so Mr. Pence allowed it to sit until Ms. Casey  
17 assumed the position of U.S. Attorney.

18 Q Why was -- what was your understanding as  
19 to why this would be a case of, quote, unquote, sour  
20 grapes?

21 A My understanding was that it was based on  
22 the prior trial of Mr. McDougal in 1990.



1 Q As of June 29, 1993, how many  
2 communications had you had with Mr. Irons about  
3 criminal referral C0004?

4 A I don't recall the exact number.

5 Q Did you just have the one conversation with  
6 Mr. Irons, or did you have a number of conversations  
7 with him?

8 A I know I had the one conversation with  
9 Mr. Irons, that's documented in my file regarding  
10 specifically Madison.

11 MR. BEN-VENISTE: You're referring to the  
12 December conversation now?

13 MR. GIUFFRA: Yes.

14 BY MR. GIUFFRA:

15 Q Other than the December conversation, did  
16 have any other conversations with Mr. Irons about  
17 Madison?

18 MR. BEN-VENISTE: That would have been  
19 December '92?

20 MR. GIUFFRA: Correct.

21 THE WITNESS: I don't recall specific  
22 discussions about Madison, but I'm sure I had other

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1 conversations with Mr. Irons regarding other ongoing  
2 cases.

3 BY MR. GIUFFRA:

4 Q So he was someone you had an ongoing  
5 relationship with?

6 A Yes, sir, very much so.

7 Q Okay. As of June 29, 1993, had you spoken  
8 to any member of the press about criminal referral  
9 C0004?

10 A No, sir.

11 Q When did you commence work on what became  
12 known as referrals 2 through 10 regarding Madison?

13 A Late May 1993.

14 Q And who made the decision that you should  
15 commence work on those -- the other nine referrals?

16 A Mr. Ausen and Mr. Iorio.

17 Q And do you have any understanding as to why  
18 Mr. Ausen and Mr. Iorio wanted you to commence work  
19 on the -- on referrals 2 through 10?

20 A I understood they wished me to proceed with  
21 the investigation based on further evidence of fraud  
22 I had found during the first part of the

1 investigation.

2 Q Did they indicate to you whether anyone  
3 higher up the chain of the command at the RTC wanted  
4 you to commence and -- commence preparation of any  
5 subsequent criminal referrals that might have arose  
6 out of your first investigation?

7 A No, sir.

8 Q So this was -- the decision to commence  
9 work on what became known as referrals 2 through 10  
10 was a decision that Mr. Ausen and Mr. Iorio made?

11 A To the best of my knowledge, yes.

12 Q Let me show you a document which bears  
13 Bates number RM00094, it's a letter from Paula Casey  
14 dated -- to you dated October 27, 1993.

15 (Witness reviews the document.)

16 BY MR. GIUFFRA:

17 Q Did you speak with anyone at the RTC --  
18 strike that.

19 Would this be -- this is the declination  
20 letter with regard to the first criminal referral?

21 A Yes, sir.

22 Q Did you speak with anyone at the RTC about

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1 this declination letter?

2 A Yes.

3 Q Who did you speak to?

4 A Mr. Ausen and Mr. Iorio.

5 Q And what do you recall about those  
6 conversations that you had with Mr. Ausen and  
7 Mr. Iorio about this declination letter?

8 A I was taken aback by Ms. Casey's indication  
9 where she stated as you know, because -- or as you  
10 are aware; I was not aware that the Justice  
11 Department had previously declined the referral.

12 Q Now, in your house testimony, you  
13 testified, quote, Ms. Casey's rejection was in direct  
14 conflict with information I had received from the  
15 Justice Department in Washington and the U.S.  
16 Attorney's Office when the referral was returned to  
17 Little Rock four months earlier, closed quote.

18 What's the basis for that testimony?

19 A Ms. Henneman had indicated to me that  
20 Mr. Frazier intended to return the referral to the  
21 U.S. Attorney's Office because he found no reason for  
22 recusal and no basis for conflict of interest, and it

1 left me with the understanding that the U.S.  
2 Attorney's Office would revisit the referral,  
3 possibly open an investigation on it.

4 And when Ms. Casey sent me this letter and  
5 declined it stating as you know, I was very  
6 surprised.

7 Q Now, immediately after this testimony about  
8 Ms. Casey's rejection being in direct conflict, when  
9 you heard from Ms. Henneman, you said the committee  
10 should be aware of press reports regarding a series  
11 of press calls from former associate Attorney General  
12 Webster Hubbell to Paula Casey which overlapped with  
13 the latter part of the same time period.

14 This testimony was based solely on press  
15 reports; is that correct?

16 A That's correct.

17 Q So you don't know whether Webster Hubbell  
18 spoke to Paula Casey and vice versa during this time  
19 period?

20 A No, sir, I have no personal knowledge of  
21 that.

22 Q Do you have any -- do you have any other

1 knowledge other than for press reports with regard to  
2 whether they spoke?

3 A No, I don't.

4 Q After receiving this declination from  
5 Ms. Casey, did you speak with anyone in the U.S.  
6 Attorney's Office in Little Rock?

7 A I don't have an immediate recollection of  
8 any conversations shortly thereafter.

9 Q Do you recall whether you spoke to anyone  
10 at the FBI following your receipt of Ms. Casey's  
11 declination letter?

12 MR. FORSHEY: Mr. Giuffra, let me clarify,  
13 with respect to the declination?

14 MR. GIUFFRA: Correct.

15 THE WITNESS: I had several conversations  
16 going on into later dates, Mr. Giuffra, perhaps if  
17 you could give me a specific time frame, it would be  
18 easier to answer.

19 BY MR. GIUFFRA:

20 Q Did you ever discuss Ms. Casey's  
21 declination letter with Mr. Irons that you can  
22 recall?

1 A No, I don't recall the specific discussion,  
2 just about that letter.

3 Q Okay. Now, after receiving the declination  
4 letter, did you continue to work on the nine  
5 additional criminal referrals relating to Madison?

6 A No, sir, they were completed by that time.

7 Q Okay. When were those criminal referrals  
8 completed?

9 A They were completed and signed on September  
10 24th, 1993.

11 Q And you commenced work on those referrals  
12 sometime in May of 1993?

13 A That's correct.

14 Q Now, in your house testimony, you refer to  
15 something called the Madison criminal investigative  
16 team.

17 Who were members of the Madison criminal  
18 investigative team?

19 A Mr. Mike Karen who was a senior criminal  
20 investigator; Mr. Ed Noise, criminal investigator,  
21 and Mr. Randy Knight, and myself.

22 Q And the nine additional criminal referrals

1 relating to Madison were based on the work of the  
2 four of you?

3 A That's correct.

4 Q And when were the nine additional criminal  
5 referrals submitted to the U.S. Attorney's Office in  
6 Little Rock?

7 A October 8th, 1993.

8 Q And prior to submitting those criminal  
9 referrals to the U.S. Attorney's Office in Little  
10 Rock, were they reviewed by your supervisors?

11 A Yes, sir.

12 Q And who reviewed it at the RTC?

13 A Mr. Ausen, Mr. Iorio, copies of the  
14 referrals were provided September 27th to Mr. Dudine.

15 Q On September 27th?

16 A Yes; to Mr. Dudine, to Mr. Thompson and to  
17 Ms. Yanda, Ms. Julia Yanda.

18 Q And who is Ms. Julia Yanda?

19 A She's the section chief of the professional  
20 liability section for legal division RTC Kansas  
21 City.

22 Q Let's just focus -- let's go back to



1 criminal referral C0004.

2 Was that criminal referral reviewed by  
3 anyone at the RTC above Mr. Ausen or Mr. Iorio?

4 A Yes, sir. My understanding is that  
5 Mr. Dudine received a copy of it and reviewed it and  
6 that Mr. Carl Gamble reviewed it as well.

7 Q Okay. Who was Mr. Carl Gamble?

8 A It's the PLS criminal coordinator on the  
9 national basis in the RTC Washington office.

10 Q And do you have any understanding as to  
11 Mr. Gamble's views with regard to criminal referral  
12 C0004?

13 A Yes, sir.

14 My understanding is that Mr. Gamble found  
15 that the referral met and exceeded the basic  
16 standards required for a referral to go to the  
17 Justice Department.

18 MR. FORSHEY: Excuse me.

19 (Pause.)

20 BY MR. GIUFFRA:

21 Q What were Mr. Dudine's views as to the  
22 sufficiency of criminal referral C0004?

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1 A I understand Mr. Dudine felt the same way.

2 Q And what was that again?

3 A That it met and exceeded the basic  
4 requirements for a referral to be sent to justice.

5 Q Do you have any understanding as to why  
6 Ms. Casey declined criminal referral C0004?

7 A Her letter indicated it was on the basis of  
8 insufficient information.

9 Q Did you subsequently contact anyone from  
10 the U.S. Attorney's Office in Little Rock and offer  
11 to provide additional information to them?

12 A We had an ongoing understanding with the  
13 U.S. Attorney's Office prior to Ms. Casey's tenure  
14 that any information they needed, they were free to  
15 request from us, that was a standard procedure.

16 Q And did anyone in the U.S. Attorney's  
17 Office request additional information from you?

18 A Regarding 00004?

19 Q Yes.

20 A No, sir.

21 Q And you would have been prepared to provide  
22 additional information if you were required to do so?

1 A Whatever they asked for.

2 Q Now, Ms. Casey declined the criminal  
3 referral C0004 on October 27, and you submitted the  
4 nine additional referrals on October 8th, so that  
5 Ms. Casey had the additional referrals in her  
6 possession at the time she declined the first  
7 referral; isn't that right?

8 A Yes, sir.

9 Q Now, did you subsequently write a letter on  
10 November 1st to Ms. Casey following her declination  
11 of criminal referral C0004?

12 A Yes, I did.

13 Q Let me show you that letter.  
14 (Witness reviews the document.)

15 THE WITNESS: Yes, sir.

16 BY MR. GIUFFRA:

17 Q Now, at whose direction did you write this  
18 letter to Ms. Casey?

19 A Mr. Iorio suggested that I respond.

20 Q Did anyone from Ms. Casey's office contact  
21 you with regard to this letter dated November 1,  
22 1993?

1 A No, sir, not that I recall.

2 Q Did you ever speak to Mr. Roddey about the  
3 declination of criminal referral C0004?

4 A I don't recall a specific conversation with  
5 him, no.

6 Q The CC at the bottom of this letter  
7 November 1, 1993, Deborah Westbrooke, that's Deborah  
8 Westbrooke from the Office of Legal Counsel in  
9 Department of Justice --

10 A Yes, sir.

11 Q -- Executive Office of U.S. Attorneys?

12 A Yes, sir.

13 Q Did you ever speak to Ms. Westbrooke about  
14 the declination of criminal referral C0004?

15 A No, sir.

16 Q Did you ever speak to anyone at main  
17 justice about the declination of criminal referral  
18 C0004 other than, you know, the independent counsel,  
19 I would assume?

20 A I believe I had a conversation with  
21 Ms. Henneman.

22 Q Ms. Henneman. What did Ms. Henneman say to

1 you about the declination of this criminal referral?

2 A I'd like to review the document that I  
3 memorialized that in, but my recollection is that she  
4 was surprised.

5 Q What I'd like to do now is just briefly go  
6 through some of the other criminal -- the additional  
7 criminal referrals.

8 I'll show you a document which bears Bates  
9 Number 1001 through 1010, it is a criminal referral  
10 bearing the number 730 CR 0190.

11 A I'm familiar with this document.

12 Q Okay. I just have one question just as a  
13 matter of procedure.

14 Each of these criminal referrals contained  
15 the signature of yourself, Mr. Ausen and Mr. Iorio,  
16 was that standard procedure at the RTC Kansas City  
17 office?

18 A Yes, sir.

19 Q So these are not just Jean Lewis' criminal  
20 referral, but these are criminal referrals that had  
21 been reviewed by your supervisory investigator and  
22 the field investigations officer?

1 A That's correct.

2 Q Now, I know we're trying to do this very,  
3 very quickly. But could you, in your own words, just  
4 briefly describe the suspected criminal activity  
5 that's referenced in, let's just go by the last three  
6 numbers, 190?

7 A Yes, sir. This had to do with the possible  
8 misappropriation of loan proceeds by Mr. Jim Guy  
9 Tucker from a Madison loan, I believe it was Number  
10 30004 for \$260,000; the RTC alleged that \$135,000 of  
11 that had been misappropriated to pay off an unrelated  
12 debt from Mr. Tucker.

13 Q Okay. Let me show you a criminal referral,  
14 let's just call this one 192.

15 Are you familiar with this criminal  
16 referral?

17 (Witness reviews the document.)

18 THE WITNESS: Yes, sir, I am.

19 BY MR. GIUFFRA:

20 Q Could you briefly describe the criminal  
21 activity that was referred to in this criminal  
22 referral?

1 A Yes, sir. The allegation was made that  
2 Mr. McDougal potentially embezzled up to \$50,000  
3 through creating overdraft situations out of his  
4 individual accounts and the Whitewater Development  
5 account at Madison Guaranty Savings in order to  
6 provide funds to Mr. J. W. Fulbright.

7 Q Do you have any knowledge as to what  
8 Mr. Fulbright's connection was to Whitewater?

9 A No, sir, I was not aware of any connection  
10 Mr. Fulbright had to Whitewater.

11 Q Was it your belief that Mr. McDougal was  
12 using Mr. Fulbright's name to funnel money into  
13 Whitewater or into some other entity?

14 A Yes, sir.

15 Q What was the basis for that belief?

16 A I'd seen previous evidence and documents  
17 wherein Mr. McDougal had clearly stated that he had  
18 been signing documents for J. W. Fulbright for 20  
19 years which led me to believe that was Mr. McDougal  
20 acting.

21 Q Now, this criminal referral which we'll  
22 describe as 192 also indicates that Bill Clinton and

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1 Hillary Rodham Clinton may be witnesses or are  
2 witnesses to suspected violation.

3 What was the basis for your listing both  
4 Clintons as possible witnesses?

5 A The fact that \$30,000 went through the  
6 Whitewater Development account at Madison Development  
7 Guaranty and that Mr. and Mrs. Clinton again were  
8 partners with Mr. and Mrs. McDougal in Whitewater  
9 Development, and the basic belief that the partners  
10 may all have had knowledge of what was going on with  
11 the finances of their corporation through Madison  
12 Guaranty Savings, so they were listed as witnesses.

13 Q I apologize for trying to do this as  
14 quickly as I am, but it's probably in everybody's  
15 interest. This is criminal referral 195, it bears  
16 Bates Number 1018 through 1033.

17 (Witness reviews the document.)

18 THE WITNESS: Yes, sir, I'm familiar with  
19 this.

20 BY MR. GIUFFRA:

21 Q Ms. Lewis, could you give us a summary of  
22 the suspected violation that's set forth in criminal



1 referral 195?

2 A Yes, sir.

3 The referral alleged that there was  
4 significant self dealing on the part of McDougals and  
5 other.

6 MR. BEN-VENISTE: I'm sorry, I can't hear  
7 you because you have your hand over your mouth.

8 THE WITNESS: I'm sorry.

9 The referral alleged that there was  
10 potential self dealing on the part of Mr. McDougal  
11 and other officers and insiders associated with the  
12 institution in their efforts to funnel money out from  
13 Madison Guaranty through its subsidiaries.

14 BY MR. GIUFFRA:

15 Q Okay. All right. Let me show you a  
16 criminal referral which bears Bates Number 1034  
17 through 1049, let's call this one criminal referral  
18 196.

19 (Witness reviews the document.)

20 THE WITNESS: I am familiar with this  
21 document.

22 BY MR. GIUFFRA:

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1 Q Ms. Lewis, could you provide us a summary  
2 of the suspected violation contained in criminal  
3 referral 196?

4 A Yes, sir.

5 The allegation was made that funds from a  
6 loan to Charles Peacock, III, in the amount of  
7 \$50,000 were misappropriated in the dollar amount of  
8 \$12,000 and used as possible campaign contributions  
9 to a gubernatorial campaign.

10 Q And whose gubernatorial campaign was that?

11 A Bill Clinton.

12 MR. BEN-VENISTE: I'm sorry I didn't hear  
13 the question. Could you please try to speak up,  
14 Bob?

15 MR. GIUFFRA: Why don't you read back the  
16 question and answer?

17 (The reporter read the record as requested.)

18 MR. FORSHEY: Mr. Giuffra, I don't know how  
19 much more you have, Ms. Lewis has high blood pressure  
20 and takes medication for that and she tries to eat  
21 fairly regularly because of that.

22 And if you've -- if you've got a short bit

1 more, we can certainly conclude, I just didn't know  
2 if you have another 15 minutes or half hour or an  
3 hour.

4 MR. GIUFFRA: Why don't I do it say for --  
5 is another 15 minutes too long or do you want to just  
6 stop right now?

7 THE WITNESS: No, that's fine.

8 MR. GIUFFRA: But I'll stop right at 15  
9 minutes.

10 THE WITNESS: Thank you.

11 MR. BEN-VENISTE: Off the record.

12 (Discussion off the record.)

13 MR. BEN-VENISTE: In summarizing our  
14 discussion, Mr. Giuffra's indicated that he's got  
15 another hour or an hour and a half, and the witness  
16 and in consultation with counsel has indicated a  
17 desire to try to finish up today.

18 I've indicated that I have several hours  
19 worth of questioning, and we may be going into the  
20 evening, and if that becomes uncomfortable, we'll try  
21 to make other plans.

22 BY MR. GIUFFRA:

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1 Q Ms. Lewis, if I could direct your attention  
2 to page 8 of the referral. There's a discussion of  
3 Hillary Rodham Clinton and Beverly Bassett Shaffer  
4 and the issuance of preferred stock by Madison  
5 Guaranty Savings and Loan.

6 Why was that included in the referral?

7 A It was included to show the overlap  
8 between -- and the interrelationships between Mr. and  
9 Mrs. Clinton and Mrs. McDougal as business partners,  
10 Mrs. Clinton acting as counsel to Madison Guaranty in  
11 addition to being Mr. McDougal's business partner and  
12 the fact that Ms. Shaffer had been appointed to a  
13 state position by another one of Mr. McDougal's  
14 business partners that being then-Governor Clinton.

15 Q Now, you ascertained that Mrs. Clinton had  
16 represented Madison from documents that you reviewed  
17 in Little Rock?

18 A Yes, sir, Little Rock and other documents  
19 that were on-site at RTC.

20 Q You further in the referral indicate that  
21 Ms. Clinton is a witness, a possible witness, to a  
22 suspected violation.

1           What suspected violation might she have  
2   been a witness to that's contained in this referral?

3           MR. BEN-VENISTE: Your question is might  
4   she have been a witness or did Ms. Lewis think she  
5   was a witness to?

6           THE WITNESS: May I look at the document?

7           BY MR. GIUFFRA:

8           Q   Let's ask the first question.

9           Do you think Mrs. Clinton might have been a  
10   witness to some wrongdoing alleged in this referral?

11          A   Yes, sir, I believed it was a possibility.

12          Q   Okay. What specific wrongdoing do you  
13   think that Mrs. Clinton might have been a witness to?

14          A   I thought it was a possibility that  
15   Mrs. Clinton may have been one of the individuals who  
16   may have had knowledge of the source of the funding  
17   that went into the campaign coffers.

18          Q   And why did you believe that Mrs. Clinton  
19   might have information with regard to the funds that  
20   went into the Clinton campaign coffers?

21          A   Mrs. Clinton was among additional witnesses  
22   as well that I believe might potentially have

1   knowledge of where the funds have emanated and may  
2   possibly have come through the loan to Mr. Peacock  
3   and into the campaign coffers.

4           MR. BEN-VENISTE: Was that an answer to  
5   your question of why? I just want to make sure.

6           BY MR. GIUFFRA:

7           Q   Did you have any understanding as to what  
8   benefit Madison or Mr. McDougal obtained from these  
9   campaign contributions to Mr. Clinton's gubernatorial  
10   campaign?

11          MR. BEN-VENISTE: I'm sorry, again you're  
12   whispering, Bob, it's going to take much longer if  
13   you don't speak up.

14          MR. GIUFFRA: Do you want to read the  
15   question back?

16          (The reporter read the record as requested.)

17          THE WITNESS: I believed that Mr. McDougal  
18   may have benefitted by making these campaign  
19   contributions as a basis with his partnership and  
20   friendship with Mr. Clinton on a potential quid pro  
21   quo basis.

22          BY MR. GIUFFRA:

1 Q And what was the quid pro quo that was  
2 involved here?

3 MR. BEN-VENISTE: Was involved here or was  
4 a potential quid pro quo that may have benefitted  
5 him?

6 I object to the form of the question.

7 MR. LEVIN: I make the observation that it  
8 will take longer if you keep repeating his questions,  
9 he said the potential, and then he said involved  
10 here.

11 BY MR. GIUFFRA:

12 Q Ms. Lewis --

13 MR. BEN-VENISTE: Why don't you read the  
14 back the question that's pending?

15 (The reporter read the record as requested.)

16 MR. BEN-VENISTE: I didn't hear any  
17 potential in that question, I wondered whether that  
18 was an oversight or whether Mr. Levin wants to supply  
19 it.

20 MR. LEVIN: I think your dancing on the  
21 head of your own pin at this point, sir.

22 MR. GIUFFRA: Why don't we --

1 BY MR. GIUFFRA:

2 Q Could you answer the question, Ms. Lewis?

3 A I had seen documentation that Ms. Shaffer  
4 had existing knowledge of Mr. McDougal's activities  
5 with regard to Madison, and I've also seen  
6 documentation indicating that Mr. McDougal had an  
7 invested interest in people who sat on the state  
8 savings and loan's board under Ms. Bassett's  
9 direction and that Mr. McDougal, in fact, wanted  
10 Ms. Bassett put into that position.

11 And I believe that there was a very strong  
12 possibility of a quid pro quo in the selection of  
13 Ms. Bassett into that particular position.

14 Q Okay. Do you have any recollection as to  
15 what documents gave you the impression that there was  
16 such a quid pro quo, what particular documents?

17 A I do recall a memo generated by Beverly  
18 Bassett Shaffer to Mr. Jim Guy Tucker while she was  
19 still an employee or an attorney with the Mitchell,  
20 Shield, Jackson, Tucker law firm, specifically  
21 relating to another referral matter, Campobello, in  
22 which she cited Mr. McDougal's negligence indicating



1 a familiarity with his previous actions at Madison.

2 Q And this was prior to the time when  
3 Ms. Shaffer became securities commissioner?

4 A Yes, sir, that's correct.

5 Do we have the Exhibits, Mr. Giuffra, that  
6 would be a tremendous help?

7 MR. GIUFFRA: Why don't we just take a  
8 break here and we'll get them after lunch.

9 THE WITNESS: Okay that was kind of a long  
10 question.

11 MR. BEN-VENISTE: Before we leave, we  
12 haven't been sticklers for the rule under which this  
13 committee operates in deposition process one witness,  
14 one counsel that speaks.

15 If you would like to decide over the lunch  
16 break which counsel would be making objections on  
17 that behalf, we would appreciate that.

18 MR. LEVIN: I can tell you here on the  
19 record that it'll be Mr. Forshey. And also if we're  
20 going to be sticklers to deposition procedure, I  
21 would appreciate it if our client isn't infused when  
22 you interrupt Mr. Giuffra in his questions.

1 MR. BEN-VENISTE: Your appreciation is  
2 noted, but it's going to be a silent one at this point.

3 MR. LEVIN: I offer you my chair, and you  
4 can sit close to Mr. Giuffra here to hear his  
5 questions.

6 MR. BEN-VENISTE: Thank you.

7 (Whereupon, at 12:13 p.m., a lunch recess  
8 was taken.)  
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AFTERNOON SESSION (1:10 p.m.)

EXAMINATION (Continued)

BY MR. GIUFFRA:

Q Let me show you a document, this is an exhibit to referral 196, it bears Bates numbers S-I N00460, 463.

Was this the memo you referred to in your testimony just prior to our lunch break?

A Yes, sir.

Q And what in this memorandum gave you the impression that Ms. Shaffer was aware of some of Mr. McDougal's improper activities?

A Particularly on page 3, the third paragraph.

Q If you could just identify the Bates number down on the bottom?

A Sure, SIN00462.

Q Yes.

A I'm going to read from this document, evidence that the developer willfully violated the act would have to be fairly strong. The only concern I have on this point is the fact that McDougal did

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not make a filing with the OILSR on Maple Creek Farms or on Gold Mine Springs and, to the best of my knowledge, there was no exemption available for those developments.

This must be disclosed in the statement of record for Campobello Island Estates. The failure to comply with the act in connection with one or two previous land development projects is some evidence that the failure once again to comply with the act was willful and not just a negligent oversight.

Q Now, in the referral, you attached certain correspondence from Ms. Shaffer to Ms. -- to Mrs. Clinton and then from Mrs. Clinton to Mr. McDougal, and I'll give you both of those letters. They bear Bates numbers SIN00389, SIN00390.

Why did you include these two letters in your referral?

A The letter to the Arkansas Securities Department -- excuse me, from the Arkansas Securities Department and Beverly Bassett, so Mrs. Clinton indicated that Mrs. Clinton was representing Madison

1 in front of Mrs. Shaffer and was, in fact,  
2 negotiating on behalf of Madison in an effort to try  
3 to get this stock issuance resolved.

4 I brought it up to illustrate the point  
5 that Mrs. Clinton was not potentially just acting on  
6 behalf of Madison but on her business partner  
7 Mr. McDougal as well.

8 Q And what was the significance of the fact  
9 that Mrs. Clinton was acting on behalf of her  
10 business partner Mr. McDougal for the securities  
11 department?

12 A The significance was the timing of the  
13 referrals, the timing in this letter was roughly  
14 within the same time frame within the dates of those  
15 campaign contributions.

16 Q So do you believe there was somehow a  
17 connection between the campaign contributions and the  
18 fact that Mrs. Clinton had represented Madison before  
19 the Arkansas Securities Department?

20 A I believe that there was a possibility of a  
21 quid pro quo situation in that if the contributions  
22 were made through this misappropriated loan than, in

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1 fact, it might have -- I take that back, not might  
2 have, that the possibility existed that this could  
3 have been a return favor, Mrs. Clinton and the Rose  
4 firm representing Madison, in an effort to try to get  
5 thrift recapitalized at the time when it needed the  
6 money.

7 Q Did there come a time when you learned that  
8 the Rose Law Firm was receiving a monthly retainer  
9 from Madison?

10 A Yes.

11 Q When was that?

12 A I don't recall the exact date.

13 Q Now, referral 196 related to a 4/5/85 loan  
14 from Madison to Mr. Peacock.

15 Did Mr. Peacock default on that loan?

16 A Yes, he did.

17 Q And your analysis of the records indicated  
18 that some \$6,000 of the \$50,000 loan to Mr. Peacock  
19 found its way into Bill Clinton's campaign fund?

20 A Yes, sir, that was my allegation.

21 Q And is it further your allegation that some  
22 portion -- strike that.

1 Now, am I correct that because Peacock  
2 defaulted on the loan and 6,000 was given to Clinton,  
3 some portion of -- that amount was ultimately  
4 something that was a loss borne by taxpayers, federal  
5 taxpayers?

6 A Yes, sir, that was my -- part of my belief  
7 in making that allegation.

8 Q Let's go to the next referral.

9 I'll show you a document which bears Bates  
10 numbers 1050 to 1061. Let's describe that as  
11 criminal referral 198.

12 (Witness reviews the document.)

13 THE WITNESS: I am familiar with this.

14 BY MR. GIUFFRA:

15 Q Could you briefly describe the nature of  
16 the allegation contained in this referral?

17 A Yes, sir.

18 The allegation was potential bank fraud  
19 through what appeared to be a loan flip or, excuse  
20 me, a land flip of a property located at 1308 Main,  
21 Little Rock, Arkansas.

22 Q Now, did this referral involve Mr. Jim Guy

1 Tucker?

2 A Yes, sir.

3 Q What benefits did Mr. Tucker receive from  
4 this land flip?

5 A May I have the document?

6 Q Certainly.

7 A Thank you.

8 (Pause.)

9 THE WITNESS: Mr. Tucker initially  
10 purchased the property at a price in I believe the  
11 \$40,000 range, and when Mr. Tucker's loan matured  
12 approximately one month after the maturation date,  
13 the price of the property was significantly  
14 increased, an additional loan was made on it, the  
15 property was then sold to Lisa Anspaugh, and  
16 Ms. Anspaugh not only assumed the initial \$45,000  
17 debt from Mr. Tucker, but also all of the interest  
18 payments that had been due on the loan which had  
19 never been made by Mr. Tucker.

20 So, essentially, Mr. Tucker put no money  
21 that investigations could identify into this  
22 particular property.



1 BY MR. GIUFFRA:

2 Q Okay. Let me show you a document bearing  
3 Bates number 1062 to 1081, this is criminal referral  
4 Number 199.

5 If you could just, again, briefly describe  
6 the allegation contained in referral 199.

7 A The referral alleges that there was a  
8 conspiracy among James McDougal, Chris Wade and the  
9 other partners of the development of the Campobello  
10 Island off of the coast of New Brunswick, Maine.

11 Q Do you have any understanding as to why a  
12 savings and loan in Little Rock, Arkansas was making  
13 loans in connection with a real estate project in New  
14 Brunswick, Canada?

15 A Mr. McDougal and Madison Guaranty through  
16 their subsidiary, Madison Financial, invested in  
17 Campobello as a real estate venture that they wanted  
18 to develop, and as to why, my understanding from  
19 documents that I reviewed is that Mr. McDougal had an  
20 interest in Franklin D'Eleanor Roosevelt and as that  
21 had previously been his home, he was interested in  
22 purchasing the island and developing it.

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1 Q Let's my show you another document bearing  
2 Bates numbers 1082 to 1088. This is criminal  
3 referral number 203.

4 Again, if you could just summarize the  
5 allegation contained in this criminal referral.

6 MR. BEN-VENISTE: Are you going to go  
7 through all the referrals we have here on paper and  
8 ask Ms. Lewis to summarize them, is that what you're  
9 going to do?

10 MR. GIUFFRA: There's only two more to go,  
11 Richard.

12 MR. BEN-VENISTE: I guess it is.

13 THE WITNESS: Yes, sir.

14 The basic allegation was misuse of position  
15 by Madison loan officer.

16 BY MR. GIUFFRA:

17 Q Okay. Again, you prepared that referral in  
18 consultation with Mr. Iorio and Mr. Ausen?

19 A Mr. Knight wrote that referral.

20 Q Mr. Knight wrote this referral.

21 I'll show you a document bearing Bates  
22 numbers 1089 through 1098. This is a referral number

1 210.

2 A Yes, sir.

3 Q Could you just briefly summarize the  
4 allegations contained in this referral?

5 A The allegations in the referral are that  
6 Mr. McDougal utilized straw borrowers to generate  
7 loan proceeds potentially for the benefit of his  
8 mother, Loreen McDougal.

9 Q And the last referral, 1099 through 1108,  
10 this is referral number 211, again, if you could  
11 summarize that referral.

12 A The referral alleges conspiracy and  
13 attempts itself dealing on the parts of Mr. McDougal  
14 and other officers and borrowers of Madison to get  
15 money out the door through the use of their  
16 subsidiaries and paying associated or inside parties  
17 who were also vendors.

18 Q Okay. Now, are you aware of an indictment  
19 that the Independent Counsel Star has brought against  
20 Jim and Susan McDougal as well as Jim Guy Tucker?

21 A Yes.

22 Q And am I correct that some of the

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1 information developed in the course of these  
2 referrals provided the basis for those indictments?

3 A Yes.

4 Q Could you specifically just state for the  
5 record what points that were raised in your other  
6 allegations that were raised in your referrals  
7 provided the basis for those criminal indictments as  
8 far as you know?

9 A I prepared a written summary of that,  
10 Mr. Giuffra, and I appreciate being able to review it  
11 if I could.

12 Q Certainly.

13 MR. GIUFFRA: Let's go off the record.  
14 (Discussion off the record.)

15 BY MR. GIUFFRA:

16 Q Let me show you -- this is a memorandum --  
17 this is a document bearing -- dated August 24th, 1995  
18 from you to Mr. Iorio and Mr. Ausen.

19 A Thank you.

20 Would you mind reasking your question,  
21 please?

22 Q Right. Why don't I just start from the

1 beginning?

2 Who asked you to prepare this memorandum,  
3 if anyone?

4 A No one.

5 Q Okay. Why did you prepare the memorandum?

6 A I wished to make my supervisory chain of  
7 command aware of the end results of some of the  
8 referrals that we had generated and submitted.

9 Q And this -- and this memorandum summarizes  
10 the extent to which the August 17, 1995 indictment of  
11 McDougal, the McDougals and Tucker was based on work  
12 that you prepared in connection with the nine  
13 additional referrals?

14 A Yes.

15 Q Is there anything more you'd like to add to  
16 the record other than what's contained in this  
17 memorandum?

18 A No, sir, I believe the document speaks for  
19 itself.

20 Q Thank you.

21 Now, in your house testimony, you stated  
22 that there was a concerted effort by the professional

1 liability section of the RTC to monitor your  
2 investigation to Madison and to exert control over  
3 certain aspects of it; is that correct?

4 A That's correct.

5 Q Could you just briefly state for the record  
6 what role Ms. Yanda played in connection with the PLS  
7 monitoring of your investigation?

8 A After Ms. Yanda was made aware of the  
9 referrals, the pending referrals in July of 1993.

10 Q Who was the person who made her aware of  
11 those referrals?

12 A Mr. Iorio.

13 Q Did he conduct Ms. Yanda or did Ms. Yanda  
14 contact him?

15 A He contacted her.

16 Q Okay.

17 A After she became aware of the referrals, we  
18 noticed an increase in the interaction with PLS and  
19 investigation specifically with regard to the Madison  
20 investigation, even though all of the previous  
21 professional liability claims had been closed out.

22 Q What was your understanding with regard to

1 the basis for Ms. Yanda's involvement in monitoring  
2 the Madison investigation?

3 A I didn't have an understanding of why  
4 Ms. Yanda began to monitor the investigation as she  
5 did, because the civil claims were closed out, and I  
6 did not understand the level of concern.

7 Q So it's your testimony that once the civil  
8 claims are closed out, there's no reason for  
9 Ms. Yanda, who works in the civil section, to be  
10 involved in monitoring the criminal investigation  
11 that you're conducting?

12 A No.

13 Q So she had no reason to be involved in  
14 monitoring your investigation?

15 A That's my belief.

16 Q Did you discuss that with Mr. Iorio or  
17 Mr. Ausen?

18 A Yes.

19 Q And did they concur in your belief?

20 A Yes.

21 Q Now, did there come a time when Mr. Iorio  
22 advise you that he was receiving complaints from

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1 persons in PLS about the level of communication by  
2 the criminal investigation unit of which you were a  
3 member with the FBI and the U.S. Attorney's Office?

4 A Yes.

5 Q Could you describe what Mr. Iorio said to  
6 you about these complaints from the PLS section?

7 A Yes.

8 He advised me that personnel in PLS had  
9 complained to him that we should not be talking  
10 directly -- we, excuse me, let me qualify that, as in  
11 the criminal investigators themselves should not be  
12 talking directly or communicating directly with staff  
13 for the U.S. Attorney's Office in the Eastern  
14 District of Little Rock.

15 Q Now, had you previously been given this  
16 instruction with regard to any other matter you had  
17 worked on?

18 A No.

19 Q What was the normal procedure with regard  
20 to interaction between members of the RTC criminal  
21 investigations unit and members of the U.S.  
22 Attorney's Office in Little Rock?



1 A Open communication, exchange of information  
2 and a willingness on the part of investigations to  
3 provide whatever verbal assistance we could to the  
4 U.S. Attorney.

5 Q Do you have any understanding as to why  
6 Mr. Iorio was advised by the PLS unit that criminal  
7 investigators should not communicate with members of  
8 the U.S. Attorney's Office?

9 A Yes.

10 Q What did he tell you?

11 A The complaint was focused on a conversation  
12 I had with Assistant U.S. Attorney Fletcher Jackson  
13 in that I volunteered information to him that he had  
14 previously called and requested, and in doing so, an  
15 individual in the PLS staff deemed that to be what  
16 she termed an effort for me to aid in a fishing  
17 expedition by the U.S. Attorney, and they did like  
18 that in PLS and complained to Mr. Iorio.

19 Q Now, did Mr. Jackson contact you and ask  
20 you to provide information to him?

21 A Yes, he did.

22 Q And approximately when did Mr. Jackson

1 contact you with this request for information?

2 A My best recollection without the documents  
3 in front of me is late August, early September 1993.

4 Q Do you recall the request that Mr. Jackson  
5 made of you with regard to a Madison-related matter?

6 A Yes.

7 Q What was the request?

8 A He asked me if I would trace the flow of  
9 funds from a \$300,000 loan that had been made from  
10 Capital Management Services to an entity known as  
11 Master Marketing and the funds he had learned had  
12 been deposited directly into the McDougal's personal  
13 account.

14 Q What did Mr. Jackson -- what, if anything,  
15 did Mr. Jackson say to you about this master  
16 marketing loan?

17 A He wanted to know where the money had  
18 actually gone and asked me if I could through  
19 Madison's records and the daily records and  
20 microfiche and track the flow as the money went out  
21 of the McDougal's account.

22 Q Did he indicate to you that he had any

1 suspicion as to where the money had gone from the  
2 McDougals' banking account?

3 A Yes, sir, he indicated he had an idea.

4 Q And what was the idea that he indicated to  
5 you he had about where the funds had gone?

6 A He didn't share much of an idea with me at  
7 all. He just told me that he had an idea where the  
8 money went, and that he was working on a David  
9 Hale-related investigation.

10 Q Did Mr. Jackson mention Whitewater  
11 Development Corporation to you in the course of this  
12 conversation?

13 A I don't recall.

14 Q Did Mr. Jackson mention Bill Clinton during  
15 the course of his conversation?

16 A I don't recall that either.

17 Q Just so I can understand the lines of  
18 reporting authority at the RTC.

19 Did the criminal investigation unit  
20 ultimately report to the PLS unit?

21 A At this point in time, yes; at that  
22 particular point in time, no.

1 Q Okay. So as we sit here today, the  
2 criminal investigations unit reports to PLS; is that  
3 correct?

4 A Through Mr. Iorio, that's correct.

5 Q But in the period let's say July through  
6 October 1993, was there any sort of reporting  
7 relationship between the criminal investigations unit  
8 and the RTC PLS unit?

9 A No, sir.

10 Q To whom did the criminal investigation unit  
11 report during this period, July through October 1993?

12 A To Mr. Iorio who reported I believe  
13 through -- at that time Mr. James Thompson, the  
14 regional vice president on a dotted-line basis but  
15 directly to James Dudine who was the national  
16 director of investigations in Washington.

17 Q And who did Mr. Dudine report to?

18 A Ultimately Mr. William Roley, but I believe  
19 there was someone in between, and I cannot recall his  
20 name.

21 Q Did you ever discuss with Mr. Iorio the  
22 fact that PLS did not have any sort of a -- strike

1 that.

2 Did you ever discuss with Mr. Iorio the  
3 absence of a reporting relationship between the  
4 criminal investigations unit and the PLS?

5 A We had discussions about the relationship,  
6 but not an absence of relationship.

7 Q What discussions did you have about the  
8 nature of the relationship between the criminal  
9 investigations unit and the PLS?

10 A There was a dotted-line relationship to the  
11 PLS criminal coordinator, between criminal  
12 investigations and PLS and that, to my knowledge, is  
13 the extent of the relationship.

14 Q What was the area of responsibility of the  
15 PLS section?

16 A To handle professional liability claims and  
17 malpractice claims as far as accountants, appraisers,  
18 attorneys, professional liability issues.

19 Q Do you know who at PLS was critical of  
20 you're speaking with Mr. Jackson?

21 A To the best of my knowledge, it was Karen  
22 Carmichael.

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1 Q Do you know whether Ms. Carmichael was  
2 acting at the direction of anyone else at the RTC?

3 A No, I don't.

4 Q Now, am I correct that you had been  
5 planning on submitting the nine additional referrals  
6 to the U.S. Attorney's Office and the FBI on October  
7 1st, 1993?

8 A Yes.

9 Q Did something happen that caused you to  
10 postpone the submission of those additional  
11 referrals?

12 A Yes.

13 Q And what was it that happened that caused  
14 you to postpone the submission of those additional  
15 referrals?

16 A September 30th, 1993, Ms. Yanda advised  
17 Mr. Iorio that she wanted additional time in which  
18 her staff could conduct a legal review or analysis of  
19 the referrals prior to their submission.

20 Q Do you have any understanding of the basis  
21 that Ms. Yanda provided for conducting this legal  
22 review of the nine additional referrals?

1 A Yes.

2 Q And what basis did Ms. Yanda provide for  
3 conducting this review?

4 A She based her request on a June 17th, 1993  
5 document.

6 Q And what is the document that she based her  
7 request upon?

8 A It was a memoranda, as I recall, directed  
9 to field department heads outlining in written form  
10 procedures that had previously existed in more of a  
11 verbal format.

12 Q And did that memorandum grant Ms. Yanda or  
13 her unit the authority to review criminal referrals  
14 so far as you know?

15 A So far as I know, yes, it granted them the  
16 authority to review criminal referrals.

17 Q Had Ms. Yanda's unit insofar as you know  
18 reviewed any other criminal referrals that were  
19 generated by the Kansas City criminal investigations  
20 unit?

21 A No, sir.

22 MR. BEN-VENISTE: Was there some indication

1 there were some in the interim? It seems to presume  
2 that there were some that they didn't review.

3 BY MR. GIUFFRA:

4 Q Well, I'll ask that question.

5 Are you aware of any other criminal  
6 referrals from the Kansas City unit during the period  
7 after the -- after this memorandum was prepared in  
8 October 1st, 1993 that were submitted without review  
9 by the PLS section?

10 MR. FORSHEY: I'm not sure I understand the  
11 time frame.

12 THE WITNESS: Yes, thank you.

13 MR. GIUFFRA: Let's strike the question.  
14 Poorly phrased question.

15 MR. BEN-VENISTE: Are you going to try to  
16 rephrase it or just drop it?

17 MR. GIUFFRA: We're going to try to  
18 rephrase it.

19 BY MR. GIUFFRA:

20 Q It's your recollection that it was  
21 approximately June 17th that, 1993 that the RTC  
22 instituted a policy requiring the review of criminal



1 referrals by the PLS section; is that correct?

2 A It's my understanding that document  
3 provided them an opportunity to review.

4 Q Between the time at which this policy was  
5 stated in October 1st, 1993, are you aware of any  
6 other criminal referrals from the Kansas City office  
7 that were reviewed by the PLS section?

8 A Not that were reviewed, no.

9 MR. BEN-VENISTE: The question as suggested  
10 that it was, were there any other criminal referrals,  
11 and then we'll get to whether there was an  
12 opportunity to review.

13 BY MR. GIUFFRA:

14 Q Are you aware of any other criminal  
15 referrals that were made during this period?

16 A Yes.

17 Q Do you recall approximately how many  
18 criminal referrals were made during the period June  
19 17, 1993 through October 1st, 1993?

20 A I believe the number was somewhere between  
21 six and eight.

22 Q Now, copies of the additional referrals

1 were provided to Ms. Yanda; correct?

2 A Which additional referrals, Mr. Giuffra.

3 Q The nine additional criminal referrals that  
4 you had prepared.

5 A That's correct.

6 Q Were they also insofar as you know provided  
7 to other senior management in RTC in Washington?

8 A Excuse me, may I correct something you just  
9 said?

10 Q Sure.

11 A You indicated that the nine criminal  
12 referrals that I prepared, the nine referrals that  
13 were prepared collectively by the criminal  
14 investigative unit.

15 Q Exactly.

16 A Thank you.

17 Would you mind reasking your question?

18 Q Okay. Were copies of the nine additional  
19 criminal referrals prepared by the Kansas City  
20 criminal investigations unit provided to other RTC  
21 senior management in Washington and Kansas City?

22 A Yes, sir.

1 Q To whom were copies of these referrals  
2 provided?

3 A To the best of my knowledge, those copies  
4 went to Mr. Dudine, Mr. Thompson, and I believe  
5 Mr. Dennis Cavanaugh, as well as Ms. Yanda.

6 Q Now, in your house testimony, you state  
7 also on September 30, 1993, Ms. Yanda assured acting  
8 RTC general counsel Leon Curtis that proposed  
9 referrals would not be submitted to the U.S.  
10 Attorney's Office and the FBI until her staff in  
11 PLS reviewed them.

12 What was the basis for your -- for this  
13 statement that you made in your house testimony?

14 A I reviewed a memorandum -- an E-mail that  
15 Ms. Yanda had sent to Mr. Leon Curtis that stated  
16 that the proposed referrals would not go out until  
17 her staff had had a chance to review them.

18 Q Now, further on in your house testimony,  
19 you indicate that you met with the Regional Inspector  
20 General Dan Sherry; is that correct?

21 A That is correct.

22 Q Could you please just provide for the

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1 record the circumstances in which you met Mr. Sherry?

2 A On the basis of Ms. Yanda's unprecedented  
3 demand to conduct legal analysis of referrals before  
4 they went out, I had serious concerns and I took them  
5 to Mr. Sherry as the regional inspector general to  
6 talk to him about why I was concerned.

7 Q Just so the record it clear, was it your  
8 concern that she conducted a review before the  
9 referrals were submitted to the U.S. Attorney's  
10 Office rather than doing the review after they were  
11 at the U.S. Attorney's Office?

12 A It was my concern that the review of the  
13 referrals as being conducted only was as a delay  
14 tactic.

15 Q Do you have any understanding as to why  
16 Ms. Yanda conducted this review?

17 A No, I don't.

18 Q Okay. What do you recall about your  
19 discussions with Mr. Sherry?

20 A We met for approximately two hours during  
21 which I outlined several reasons for my concerns with  
22 regard to the actions that had been taken with

1 PLS between July when Ms. Yanda was apprised of the  
2 pending referrals and up to that point when the  
3 referrals were actually ready to be submitted.

4 Ms. Yanda was aware of the potential  
5 submission date, knew that was the date that we  
6 wanted to send them out, and then made her  
7 unprecedented request for the delay.

8 Q Now, in your house testimony, you discuss  
9 the fact that Jean Hanson, who was the general  
10 counsel of the treasury department, received certain  
11 information contained in your referrals from  
12 Mr. Curtis; is that correct?

13 A Yes, sir.

14 Q What's the basis for that testimony?

15 A It was my understanding that Ms. Hanson had  
16 been provided with a copy of the completed legal  
17 analysis prior to the time that even investigations  
18 had received a copy of that legal analysis.

19 Q Who had prepared this legal analysis?

20 A Ms. Carmichael and Mr. Phil Adams.

21 Q And this was a legal analysis of your  
22 referrals or the units nine additional referrals?

1 A That's correct.

2 Q Now, is your understanding based on press  
3 accounts or is it based upon communications that you  
4 had with RTC employees?

5 A That understanding is based on both.

6 Q Okay. Excluding press accounts, could you  
7 just state for the record the basis for your  
8 understanding as to Mrs. Hanson's request for  
9 information with regard to the nine additional  
10 referrals?

11 A Mr. Iorio indicated to me that he had  
12 learned but he did not specify how that Mr. Curtis  
13 had discussed the legal analysis with Ms. Hanson and  
14 that she had at one point reviewed it.

15 Q Now, in your house testimony, you say the  
16 request for a legal review of the criminal referrals  
17 manipulated standard procedures and provided the  
18 treasury department the opportunity to review and  
19 selectively disseminate sensitive criminal referral  
20 information.

21 Could you provide for the Senate record  
22 some additional information, if any, you might have

1 as to why this request for a legal review manipulated  
2 standard procedures and provided the treasury  
3 department the opportunity to review and selectively  
4 disseminate sensitive criminal referral information?

5 A Based on that June 17th, 1993, PLS was  
6 going to conduct a legal analysis of all of the  
7 referrals that were submitted, they could have done  
8 so with the first referral that went out after that  
9 date rather than starting with Madison which is where  
10 they chose to start the legal analysis having been  
11 conducted, it went through several additional people  
12 in the legal division, found its way to Ms. Hanson,  
13 and in doing so, gave them the opportunity to share  
14 information from those referrals with people even  
15 outside the treasury department and, therein, I used  
16 the term selectively disseminate to provide I believe  
17 the term was a heads-up.

18 Q Do you believe that the selected  
19 dissemination of this criminal -- strike that.

20 What, affect, if any, did this selective  
21 dissemination of sensitive criminal referral  
22 information have on the ongoing investigation into

1 Madison?

2 A I believe the selective dissemination  
3 ultimately had a significant impact on the ongoing  
4 investigation.

5 Q Why do you believe that selected  
6 dissemination had a significant impact on the ongoing  
7 investigation?

8 A Ms. Hanson provided that information to  
9 White House staff, and it is my belief that as a  
10 result of White House staff having come into  
11 possession of that information, additional actions  
12 may have been taken with regard to possible further  
13 impediments into the ongoing investigation resulting  
14 from the referrals.

15 Q Do you have any information that your -- in  
16 possession that indicates that the selective  
17 dissemination of this information impeded any  
18 investigation to Madison?

19 A Would you restate your question, please?

20 Q Yes. Let me restate that.

21 MR. BEN-VENISTE: Could you speak up a  
22 little more, too?



1 BY MR. GIUFFRA:

2 Q Do you have any understanding as to whether  
3 the selective dissemination of this RTC criminal  
4 referral information outside the RTC impeded any  
5 criminal investigation into Madison?

6 A I don't have a factual knowledge of that.

7 Q This is your belief based on the fact that  
8 the dissemination of sensitive law enforcement  
9 information, in general, would impede an  
10 investigation?

11 A That is correct.

12 Q Okay. Now, did there come a time when the  
13 PLS section completed its legal review of the nine  
14 additional criminal referrals?

15 A Yes.

16 Q And was that on October 8, 1993?

17 A That's the date we received it.

18 Q You indicated in your house testimony that  
19 the completed review appeared by means of the RTC's  
20 E-mail, and you further testified that the list was  
21 noteworthy because it included additional people to  
22 whom the Kansas City RTC criminal investigation unit

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1 had not provided copies of the referrals, and then  
2 you list off a couple of names.

3 In other -- in the case of other criminal  
4 referrals generated by the Kansas City RTC criminal  
5 investigations unit, had copies of those referrals as  
6 far as you know been provided to the general counsel  
7 of the RTC?

8 A I had no knowledge of that.

9 Q Why would that be unusual?

10 A The referrals had not been provided to  
11 those individuals to my knowledge, so I had no reason  
12 to understand why the legal analysis of the documents  
13 would be provided to those individuals.

14 Q Now, after you had a chance to review the  
15 legal review, did members of the Madison  
16 investigation team have any discussions amongst  
17 themselves about the legal review?

18 A Yes.

19 Q And what were the substance of those  
20 discussions?

21 A Mr. Ausen convened a meeting after we  
22 received the document of the Madison investigative

1 team, the consensus of opinion was that the questions  
2 raised within the context of the review were  
3 questions that were appropriately answered by the  
4 U.S. Attorney.

5 Q And why were these questions that were  
6 appropriately answered by the U.S. Attorney?

7 A Some of the questions would have required  
8 information and documentation that went substantially  
9 beyond the C investigations power to obtain.

10 Q Were these issues involving the fact that  
11 the U.S. Attorney's Office and the FBI had subpoena  
12 power that the RTC did not have?

13 A Yes, sir.

14 Q So in the normal case, the issues that were  
15 raised during the course of this review would be  
16 issues that would be examined by the U.S. Attorney's  
17 Office after it received a copy of the referral?

18 A Correct.

19 Q Let's just take a look at the concerns  
20 identified in connection with criminal referral 196.

21 Now, in your house testimony you say, this  
22 legal review suggested that a political fundraiser

1 could explain the allegation that \$6,000 of a \$50,000  
2 loan made to Charles Peacock, III, on April 5th, 1985  
3 had been diverted to the Bill Clinton's political  
4 committee fund as part of the \$12,000 campaign  
5 contribution engineered by Jim McDougal.

6 And you go on to say, but it was until  
7 three weeks after the referrals were submitted that  
8 the press reported on an April 5, 1985 fundraiser  
9 from Mr. Glen hosted at Madison by Jim McDougal.

10 Then you go on to say, this committee might  
11 consider investigating whether the suggestion by PLS  
12 was simply coincidental or if the legal review was  
13 assisted by other sources with specific knowledge of  
14 both the referral allegations and the April 1985  
15 fundraiser.

16 Why did you believe that the legal review  
17 had been assisted by other sources with specific  
18 knowledge of both the referral allegations and the  
19 April 1985 fundraiser?

20 A I thought it was particularly precedent  
21 that the authors of this legal review would come up  
22 with a possibility of a fundraiser when we had

1 absolutely no knowledge of a fundraiser whatsoever,  
2 and I believe that there was a possibility that  
3 information had been exchanged between the legal  
4 staff at treasury and legal staff at the RTC, and  
5 this may have been part of the information that could  
6 have conceivably flowed back through that exchange.

7 Q Did anyone at the RTC advise you that such  
8 an information exchange had occurred?

9 A No.

10 Q Now, am I correct that after the legal  
11 review was completed, you did some referrals --  
12 additional referrals to the U.S. Attorney's Office?

13 A Yes, we did.

14 Q Did you change the referrals in response to  
15 the legal review?

16 A No, sir.

17 Q Did anyone ask you to change the referrals  
18 in response to this legal review?

19 A No, sir.

20 Q Do you know whether anyone at the RTC  
21 indicated that the referrals should not be submitted  
22 absent changes to take into account the results of

1 the legal review?

2 A Could you rephrase that, please?

3 Q The legal review was completed on October  
4 7, and you received a copy of it then. You submitted  
5 the referrals -- no.

6 A It was completed on October 7th, we didn't  
7 receive it until October 8th.

8 Q Okay. You received a copy of it on October  
9 8th, and then you went forward and submitted the  
10 referrals on October 8th; correct?

11 A Correct.

12 Q So what, if any, significance did the legal  
13 review have on the submission of these particular  
14 criminal referrals other than to delay the time of  
15 their submission?

16 A None, the referrals went in as they were  
17 written.

18 Q Who made a decision to submit the referrals  
19 as written?

20 A Mr. Ausen and Mr. Iorio and the Madison  
21 investigative team.

22 Q Were you at all concerned -- strike that.

1 Were members of the Madison criminal  
2 investigative team concerned that senior RTC  
3 officials would have -- would have objected to the  
4 submission of these referrals absent changes to take  
5 into account the results of this review?

6 A No.

7 Q Did you believe you had any obligation to  
8 amend the referrals following this review?

9 A No.

10 Q And why was that?

11 A The June 17th document may have granted  
12 them the right to review the referrals, but it was  
13 not an authorization or veto power.

14 Q Now, did there come a time when the PLS  
15 assumed control of all Madison's subpoena compliance  
16 matters?

17 A Yes.

18 Q And when was that?

19 A To the best of my recollection, it was in  
20 September of 1993.

21 Q And do you have any understanding as to why  
22 the PLS assumed control of all Madison subpoena

1 compliance matters?

2 A No, sir, I was not given a reason.

3 Q Prior to that time, who had responsibility  
4 for control of Madison subpoena compliance matters?

5 A Mr. Ausen.

6 Q Now, you indicated in your house testimony  
7 that the PLS created a roadblock by implementing  
8 so-called rolling production format.

9 How did this -- how did the creation of  
10 this rolling production format create a roadblock?

11 A The normal procedures under a subpoena we  
12 received from the U.S. Attorney would have provided  
13 copies of the documents to the U.S. Attorney's Office  
14 at their office, the procedure as established by  
15 Ms. Carmichael under this rolling production format  
16 called for the FBI personnel or U.S. Attorney staff  
17 to travel to Kansas City to review the documents at  
18 that point in time.

19 Q Okay. Now, am I correct that on November  
20 9, 1993, you were removed from the Madison  
21 investigation?

22 A Yes, sir.



1 Q Do you know who directed your removal from  
2 that investigation?

3 A To the best of my understanding, it was  
4 Ms. Yanda.

5 Q And do you have any understanding as to why  
6 Ms. Yanda directed that you be removed from the  
7 Madison investigation?

8 A No, sir, I do not.

9 Q Was it the normal practice to reassign  
10 criminal investigators following the submission of  
11 criminal referrals?

12 A No, sir.

13 Q And why was it not the normal practice to  
14 do so?

15 A The investigator that conducted the  
16 investigation logically would be the person to  
17 continue working with the U.S. Attorney's Office,  
18 because of the knowledge of the investigation, and to  
19 provide them as much additional information as they  
20 needed and work with them until it was concluded.

21 Q Now, who is Mike Karen?

22 A Mr. Karen was a senior criminal

1 investigator in the criminal investigative unit.

2 Q In Kansas City?

3 A In Kansas City.

4 Q Was Mr. Karen a member of the original  
5 Madison criminal investigations team?

6 A Yes.

7 Q After you were removed from the team, were  
8 you given other assignments at the RTC?

9 A Yes.

10 Q And what were those assignments?

11 A I had numerous other thrifts that I was  
12 charged with the responsibility to investigate.

13 Q Did you ever ask anyone why you were being  
14 removed from the Madison investigation?

15 A Yes.

16 Q Who did you ask?

17 A Mr. Ausen and Mr. Iorio.

18 Q And what did they tell you was the reason  
19 why you were being removed from the Madison  
20 investigation?

21 A They informed me that I was being removed  
22 to salvage what was stated by Ms. Yanda to salvage

1 the relationship between PLS investigations; the  
2 comment was also made I was taken off to avoid me  
3 taking a bullet I didn't deserve.

4 And Mr. Iorio had advised me that Ms. Yanda  
5 had complained of personality conflict between myself  
6 and the PLS criminal coordinator.

7 Q Who was the PLS criminal coordinator?

8 A Karen Carmichael.

9 Q Now, who was going to be firing the bullet  
10 that they didn't want you to take, what was your  
11 understanding?

12 A There was no further discussion on it,  
13 that's just the way Mr. Iorio puts things.

14 Q Now, am I correct that several weeks after  
15 you were removed from the Madison investigation, you  
16 received a special achievement award for your role in  
17 the Madison investigation?

18 A Yes.

19 Q Who awarded you that award -- strike that.

20 What was the process by which you  
21 obtained -- you received this award?

22 A My understanding of the process is that a

1 recommendation is made by the employee's immediate  
2 supervisor, sent to the next level of management and  
3 the management level above that, if there is a  
4 concurrence, then the award is granted.

5 Q Do you have -- who would have been the  
6 person above Mr. Iorio that would have been involved  
7 in the determination as to whether you should receive  
8 a special achievement award for the Madison  
9 investigation?

10 A At that particular point in time, I believe  
11 it was Dennis Cavanaugh.

12 Q Okay. Did this award result in you  
13 receiving additional compensation from the RTC?

14 A Mr. Giuffra, if you'll bear with me, I'm  
15 going to back up on that for just a minute, it was  
16 either Mr. Cavanaugh or Mr. Thompson, I don't recall  
17 specifically which one. I just want to clarify that.

18 Q Okay. Now, as of the date you were removed  
19 from the Madison investigation which was November 9,  
20 1993, had you ever spoken to any member of the press  
21 about that investigation?

22 A Yes.

1 Q Okay. Who had you spoken to?

2 A I had received calls from Richard Kyle with  
3 the Associated Press, and I had received a call from  
4 and an unsolicited visit Susan Schmidt with the  
5 Washington Post.

6 Q When you were contacted by Mr. Kyle?

7 A I know, this is documented to my admin  
8 file, but I believe the date was September 29th,  
9 1993.

10 Q You did not contact Mr. Kyle?

11 A No, sir.

12 Q Do you know how Mr. -- how you came to the  
13 attention of Mr. Kyle?

14 A No, sir, I don't.

15 Q And when Mr. Kyle contacted you, what did  
16 you say to him?

17 A That I had no comment.

18 Q And what did he -- what had he asked you?

19 A If the document's available, I'd like to  
20 refresh my memory.

21 Q I apologize.

22 While we try to find that document, why

1 don't we turn to the next call. When -- were you  
2 contacted by Ms. Schmidt?

3 A As best I recall, it was the very next day,  
4 September 30th.

5 Q Let me show you a document which bears  
6 Bates number KC16.

7 A I'm familiar with the document.

8 Q Okay. What do you recall about your  
9 conversation with Ms. Schmidt?

10 A It was very brief.

11 Q And what did Ms. Schmidt ask you?

12 A She made the comment that she had been  
13 informed by people within the legal and investigative  
14 communities that there was a story that was being  
15 deep-sixed, was the term that she used, and that she  
16 had been given my name as someone she should talk to  
17 about that.

18 Q Did you provide any information to  
19 Ms. Schmidt?

20 A No, sir, I did not.

21 Q And what did you tell Ms. Schmidt?

22 A That I had no comment, and if she wished

1 further comment, she could contact Ms. Jane  
2 Jankowsky, the RTC public liaison officer.

3 Q We've identified the other document which  
4 bears Bates number KC54.

5 A Actually, Mr. Giuffra, this is not the  
6 first call that I received from Mr. Kyle, this  
7 document is dated November 2nd, and the first call I  
8 received from him was September 29th.

9 Q I apologize. Why don't we turn to this  
10 call, and we'll find the other one.

11 A Okay.

12 Q Did there come a time when Mr. Kyle  
13 contacted you again following communication on  
14 September 29, 1993?

15 A Yes, sir.

16 Q And when was that?

17 A November 2nd, 1993.

18 Q And if you could just briefly describe the  
19 substance of your conversation with Mr. Kyle?

20 A Mr. Kyle contacted me and stated that he  
21 had learned that Mrs. Clinton had been receiving a  
22 \$2,000 monthly retainer, asked me if I had any

1 knowledge of that fact, I told him I had no contact  
2 and directed him again to Ms. Jankowsky.

3 Q Why did you send E-mails to your  
4 supervisors after receiving these -- after speaking  
5 with these reporters -- after being contacted --  
6 strike.

7 Why did you send these E-mails to the  
8 supervisors after being contacted by Mr. Kyle and  
9 Ms. Schmidt?

10 A To make sure that they knew that the press  
11 was beginning to inquire after these referrals, and I  
12 was a little bit unnerved by having even received  
13 calls from the press about confidential referrals.

14 Q Why were you unnerved about receiving calls  
15 from the press about these confidential referrals?

16 A Because I thought they were confidential  
17 documents.

18 Q Did the RTC have procedures in place for  
19 responding to contacts from the press?

20 A Yes, sir, I believe so.

21 Q And did you endeavor to the best of your  
22 ability to comply with those procedures for



1 responding to press inquiries?

2 A Yes, I did.

3 Q Now, after you were removed from the  
4 Madison investigation, did you continue to provide  
5 assistance to Mr. Karen?

6 A Yes.

7 Q And what assistance did you provide to  
8 Mr. Karen?

9 A Ongoing assistance on a fairly regular  
10 basis. Mr. Karen was not completely up to speed on  
11 the initial Madison investigation that had been done  
12 prior to 0004, there were numerous questions he had,  
13 and I did my best to respond to them.

14 Q Now, did there come a time in early 1994  
15 when RTC management hired the law firm of Pillsbury,  
16 Madison and Suto to conduct a civil review of  
17 Madison?

18 A Yes, sir.

19 Q And did you provide support to Pillsbury,  
20 Madison?

21 A Yes, I did.

22 Q And what sort of support did you provide to

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1 Pillsbury, Madison in connection with its civil  
2 review of Madison?

3 A I provided them with all the information  
4 they requested from me on criminal referrals, the  
5 criminal investigation and the requested affidavit  
6 with regard to my investigative activities in the  
7 warehouse in Little Rock, Arkansas. I also had  
8 additional meetings with Pillsbury, Madison staff.

9 Q Now, did you subsequently receive a second  
10 special achievement award for your contribution to  
11 the Madison civil review?

12 A Yes.

13 Q Just briefly for the record, could you  
14 state the circumstances under which you received this  
15 second special achievement award?

16 A I understood I was receiving a special  
17 achievement award for my participation in the civil  
18 review.

19 Q And who -- what was the basis for your  
20 understanding that you were receiving this award for  
21 your -- for your contribution to the civil?

22 A I was so advised by Mr. Iorio.

1 Q Now, did there come a time in early  
2 February 1994 when Washington investigative staff  
3 assigned to the Madison civil review came to Kansas  
4 City to begin a preliminary on-site review of the  
5 Madison records?

6 A Yes, sir.

7 Q And --

8 MR. GIUFFRA: Let's go off the record for a  
9 second.

10 (Discussion off the record.)

11 MR. GIUFFRA: That's Neal Kravitz who is I  
12 think the principal democratic deputy special  
13 counsel.

14 THE WITNESS: Thank you.

15 BY MR. GIUFFRA:

16 Q I'll give -- you have a big audience for  
17 your deposition.

18 Now, did there come a time in which you had  
19 a conversation with Ms. April Breslaw in February  
20 1994 about Madison?

21 A Yes.

22 Q Now, prior to February 1994, what was your

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1 relationship with Ms. Breslaw?

2 A Nonexistent.

3 Q So the first time you met Ms. Breslaw was  
4 in February 1994?

5 A That's correct.

6 Q Who was Ms. Breslaw?

7 A Ms. Breslaw I believe is a senior staff  
8 attorney on the FDIC on loan to the RTC PLS section.

9 Q And do you have any understanding as to why  
10 Ms. Breslaw had come to the Kansas City RTC office to  
11 investigate Madison?

12 A I just understood she was there to  
13 participate in the civil review.

14 Q Now, did there come a time -- strike that.

15 Could you just briefly describe for the  
16 record what you recall about the conversation that  
17 you had with Ms. Breslaw --

18 A Yes.

19 Q -- in February 1994?

20 A Ms. Breslaw arrived in my office late  
21 afternoon, approximately 3:55, she was in my office,  
22 we conversed until approximately 4:35, when she

1 departed.

2 Q Now, was some portion of your -- some or  
3 all of your conversation with Ms. Breslaw  
4 tape-recorded?

5 A All of the conversation was taped.

6 Q Could you tell us the circumstances under  
7 which some portion or the entire conversation was  
8 tape-recorded?

9 A Yes, sir. I had a hand-held tape recorder  
10 lying on my desk, and it captured the conversation.

11 MR. BEN-VENISTE: I'm sorry, I couldn't  
12 hear that, Ms. Lewis.

13 THE WITNESS: I had a hand-held tape  
14 recorder laying on my desk, and it captured the  
15 conversation.

16 BY MR. GIUFFRA:

17 Q Was this taping intentional?

18 A No, sir.

19 Q Did there come a time during the course of  
20 the conversation in which you realized that the tape  
21 recording instrument was turned on?

22 A Yes.

1 Q And did you allow the tape recording to  
2 continue?

3 A Yes.

4 Q And why did you allow the tape recording to  
5 continue?

6 A I did not like the tone of the conversation  
7 or the inferences being made by Ms. Breslaw.

8 Q And why did you not like the tone of the  
9 conversation or the inferences being made by  
10 Ms. Breslaw?

11 A Her opening comment as I recall was whether  
12 or not under normal circumstances we would be so  
13 preoccupied with Whitewater, and from her statement  
14 that implied to me rather clearly these were not  
15 normal circumstances, I chose to let the recorder  
16 run.

17 Q As you sit here today, do you know why the  
18 recorder was running at the start of your  
19 communication with Ms. Breslaw?

20 A Yes.

21 Q I'm sure you've been asked this question a  
22 lot, we might as well get it for the Senate record.

1 A Yes.

2 Q Why was the -- why was the tape recorder  
3 running?

4 A It was old, it was eight years old at that  
5 point, it didn't always function as it was expected  
6 to.

7 Q Are you someone who dictates memos?

8 A No, I don't dictate memos,. I dictate  
9 things to do, daily reminders, points that I need to  
10 make and various investigations as I'm going through  
11 my day.

12 Q And had you been using the tape recorder  
13 prior to the conversation with Ms. Breslaw?

14 A It was a very frequent habit, yes.

15 Q Now, did there come a time when you  
16 contacted chairman -- now Chairman Leach of the House  
17 Banking Committee with regard to Madison?

18 A Yes.

19 Q Could you just describe for the record the  
20 circumstances under which you contacted Chairman  
21 Leach?

22 A Yes. I saw what I believed to be evidence

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1 of efforts to impede the -- the potential resulting  
2 investigation from the RTC referrals, I was concerned  
3 by some of the actions going on around me within the  
4 RTC and with other governmental agencies, and I chose  
5 to contact Mr. Leach in his capacity as a member of  
6 the committee with oversight authority for the RTC.

7 Q Did you contact Mr. Leach in writing or by  
8 telephone?

9 A By telephone.

10 Q Okay. And did there come a time when you  
11 actually met with Mr. Leach?

12 A Yes.

13 Q And could you just briefly describe this  
14 meeting with Mr. Leach?

15 A Yes, it occurred on February 18th, 1994 in  
16 Kansas City, and we met for approximately four hours,  
17 I believe.

18 Q And what occurred during the course of this  
19 conversation with Mr. Leach on February 18, 1994?

20 A I discussed with him and outlined for him  
21 the concerns that I had with regard to what was  
22 apparently happening to the criminal referrals.



1 Q And what were some of those concerns that  
2 you outlined to Mr. Leach?

3 A Those are fairly well outlined in my  
4 opening statement if I may review it.

5 Q Certainly.

6 A Initially, I was concerned over the loss,  
7 the apparent loss of the first referral at the trust  
8 department number 0004 and the fact I had to chase it  
9 down. I was concerned by the actions that had been  
10 taken by PLS and the unprecedented legal review.

11 I was concerned regarding my removal from  
12 the case and total lack of understanding as to why  
13 that had occurred. I was concerned with regard to  
14 when Mr. McKay was appointed and came to Kansas City,  
15 the revelation that his copy of the referral had  
16 contained the Post-It that we wouldn't be unhappy if  
17 this went away.

18 There were --

19 Q Let's just stop there for a second.

20 What was the basis for your understanding  
21 that this Post-It note existed on the document that  
22 Mr. McKay received?

1 A I was informed by Mr. Iorio that Mr. McKay  
2 had made that statement to him during their meeting.

3 Q So Mr. Iorio had told you that -- that  
4 Mr. McKay had told Mr. Iorio that there was a Post-It  
5 note on the referral indicating that, quote, we  
6 wouldn't be unhappy if this went away?

7 A That's correct.

8 Q What were some of the other reasons you  
9 contacted -- what were some of the other concerns you  
10 expressed to Mr. Leach?

11 A Some of the new directives that had been  
12 issued by the professional liability section, their  
13 attempts to take over the subpoena compliance issue,  
14 subsequent requests by Mr. McKay that PLS not be  
15 involved in subpoena compliance.

16 Ms. Carmichael's efforts to cut me out of  
17 the communication loop even prior to my removal from  
18 the investigation, the fact that I had learned  
19 through my communications with Donna Henneman that  
20 Mr. Banks had sent the first referral to the  
21 executive office as a report for the attention of the  
22 attorney general, and Mr. Barr was later quoted in

1 the press as saying he had not been made aware of  
2 that referral.

3 Q I'm almost done.

4 Did you contact Mr. Leach -- strike that.

5 Were your immediate supervisors aware that  
6 you were going to contact Mr. Leach?

7 A No, sir.

8 Q So you did this at your own instigation?

9 A That's correct.

10 Q Now, in your house testimony, you indicate  
11 that in the spring of 1994, a variety of troubling  
12 events began. Let's just run through them quickly.

13 Could you briefly describe the three  
14 unauthorized entries and searches of your office that  
15 you've identified during the course of your house  
16 testimony?

17 A Yes, sir, the first two instances, it was  
18 very evident someone had been in my office, papers on  
19 the top of my desk had been rearranged, my file  
20 cabinet drawers were open, credenza, drawers were  
21 open.

22 The desk drawers were open. Things clearly

1 had been rearranged. And it was evident someone had  
2 been in there without my permission.

3 Q Did you report the -- these unauthorized  
4 entries to anyone at the RTC?

5 A Yes, I did.

6 Q And who did you report them to?

7 A Mr. Ausen and Mr. Iorio.

8 Q You further testified at the house that  
9 Washington PLS senior staff were displeased when  
10 Mr. Iorio renewed your employment contract.

11 What was the basis for that statement?

12 A I was told by Mr. Iorio that he had been  
13 directly informed by Mr. Dudine that PLS was not  
14 happy that he had renewed my contract.

15 Q Now, did there come a time in August 1994  
16 when you were placed on administrative leave?

17 A Yes.

18 Q Could you just briefly describe the  
19 circumstances under which you were placed on  
20 administrative leave?

21 A I learned through a phone call from  
22 Mr. Noise who contacted me while I was in the

1 hospital informing me Mr. Iorio and Mr. Ausen had  
2 been placed on administrative leave, later the same  
3 afternoon, he called me back and he told me he had  
4 learned I was included in that administrative leave.

5 The following Friday -- that was on a  
6 Monday and the following Friday, I returned to the  
7 RTC and was formally notified that I was, in fact, on  
8 administrative leave.

9 Q Were you -- you were in the hospital at  
10 which you were placed on administrative leave?

11 A That's correct.

12 Q Why were you in the hospital?

13 A Digestive problems.

14 Q Have you been advised that those digestive  
15 problems were in any way connected to your work on  
16 this Madison investigation?

17 A My doctor indicated that he thought there  
18 was a strong possibility they were stress-related.

19 Q And when you subsequently -- strike that.

20 Were you ever told why you were placed on  
21 administrative leave?

22 A No, sir, I was not.

1 Q Do you have any -- strike that.

2 Do you have any understanding as to why  
3 Mr. Ausen was placed on administrative leave?

4 A No, sir.

5 Q Do you have any understanding as to why  
6 Mr. Iorio was placed on administrative leave?

7 A No, sir.

8 Q Now, did there come a time when you were no  
9 longer placed on administrative leave?

10 A Yes.

11 Q And do you know why you were removed from  
12 administrative leave --

13 A No.

14 Q -- or placed back in active service?

15 A No, sir, I do not.

16 Q During the period following -- strike that.

17 Between the time you were taken off the  
18 Madison investigation and the period in which you  
19 were placed on administrative leave, did you continue  
20 to have any involvement in the Madison investigation?

21 A Yes.

22 Q Okay. Other than involvements you've

1 already testified to, what other involvement did you  
2 have in connection with the Madison investigation?

3 MR. BEN-VENISTE: What was that question?

4 Could you read it back, please?

5 (The reporter read the record as requested.)

6 BY MR. GIUFFRA:

7 Q Did you assist Mr. Fisk's office?

8 MR. BEN-VENISTE: How many questions at a  
9 time?

10 BY MR. GIUFFRA:

11 Q Fine.

12 Did you understand that question that I  
13 just asked?

14 A I believe so.

15 Yes, I did have other ongoing involvement.

16 Q Okay. Could you just --

17 MR. BEN-VENISTE: I thought the question  
18 was what other involvement.

19 BY MR. GIUFFRA:

20 Q Could you briefly describe what other  
21 involvement you had with the Madison investigation?

22 A Yes, sir.

1 I participated in providing information to  
2 and cooperating with Mr. Fisk's office, subsequently,  
3 Mr. Star's office.

4 Q Now, as of the time you were placed on  
5 administrative leave, did you have any communications  
6 with members of the press with regard to Madison?

7 A During the time I was on --

8 Q No, no, as of the time that you were placed  
9 on administrative leave, okay, have you had -- did  
10 you have any communications with members of the  
11 press?

12 A At the time I was placed on administrative  
13 leave, no.

14 Q Now, you left the RTC -- strike that.  
15 When did you leave the RTC?

16 A September 29th, 1995.

17 Q Okay. As of the time you left the RTC, did  
18 you have any communications with members of the press  
19 with regard to the Madison investigation --

20 A No.

21 Q -- other than communications in which  
22 members of the press asked you to provide information



1 and you refused?

2 A No.

3 MR. BEN-VENISTE: Is that a question? Is  
4 that a new question or more a modification?

5 THE WITNESS: Do you want to rephrase your  
6 question?

7 BY MR. GIUFFRA:

8 Q Let me rephrase the question.

9 You testified you spoke to Mr. Kyle and  
10 Ms. Schmidt; correct?

11 A Correct.

12 Q And you said no comment in response to  
13 their questions, were there any other members of the  
14 press who attempted to contact you to whom you also  
15 said no comment?

16 A Yes.

17 Q Okay. Do you recall who those members of  
18 the press were?

19 A Some of them, yes.

20 Q Okay. Could you just briefly state who  
21 they were for the record?

22 A Mr. Solomon, John Solomon with the

1 Associated Press, Mr. Mike Hedges with Washington  
2 Times. If I had my documents in front of me, I could  
3 certainly refresh my memory.

4 Q Well, you attempted to document those press  
5 requests for information from you?

6 A Yes, sir.

7 Q And were there any instances in which you  
8 affirmatively attempted to provide information to the  
9 press about the Madison investigation as of the time  
10 you left this past September?

11 A Are you asking me if I initiated contact  
12 with the press?

13 Q Yes, did you ever initiate any contact with  
14 the press as of the time you left the RTC in  
15 September 1995.

16 A No, sir.

17 Q Okay. Just one other question.

18 In your house testimony, you say, quote, I  
19 believe there was a concerted effort to obstruct,  
20 hamper and manipulate the results of our  
21 investigation of Madison and the subsequent  
22 independent counsel of investigation by individuals

1 at the RTC treasury departments, the Justice  
2 Department and the U.S. Attorney Paula Casey's office  
3 in Little Rock.

4 Do you still believe that there was such an  
5 effort to obstruct, hamper and manipulate the results  
6 of your investigation?

7 A Yes, I do.

8 Q Is there anything further you'd like to add  
9 for the Senate record with regard to why you believe  
10 there were efforts to obstruct, hamper and manipulate  
11 the results of your investigation?

12 A No, sir, I think my testimony on that point  
13 has been thorough.

14 MR. GIUFFRA: I have no further questions  
15 at this time.

16 MR. BEN-VENISTE: Why don't we take a few  
17 minutes and we'll reorganize.

18 (A brief recess was taken.)

19 EXAMINATION

20 BY MR. BEN-VENISTE:

21 Q Ms. Lewis, I want to make sure that I  
22 understood your answers to Mr. Giuffra's questions in

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1 two general areas.

2 Are you saying that you never provided any  
3 information to any member of the press up until the  
4 time you left employment at the RTC?

5 A I'm saying I never initiated any contact  
6 with the press period.

7 Q Okay. All right. I'm not talking so much  
8 about whether you called them or they called you, I'm  
9 interested in what was said.

10 Are you saying that you never provided any  
11 information to the press prior to the time that you  
12 left employment at RTC?

13 A Yes, sir.

14 Q And are you saying that the only work that  
15 you did with respect to the Madison matter subsequent  
16 to the time that you were released of your  
17 responsibilities was in connection with cooperation  
18 with the independent counsel investigation?

19 A And the ongoing civil review that was taken  
20 by RTC Washington.

21 Q You were assigned to civil review?

22 A I was asked to participate in the civil

1 review, yes, sir.

2 Q So I don't know that Mr. Giuffra's question  
3 was limited to the criminal matter, but, if it was,  
4 then we can supplement by your explanation of what  
5 you did following the time that you were released  
6 of -- from your assignment in connection with the  
7 criminal matter, if you would, what was that  
8 responsibility and who assigned you to it?

9 A Participation in the civil review?

10 Q Yes.

11 A Mr. Iorio asked me to respond to numerous  
12 questions that had been received by PLS staff in  
13 Washington and instructed me to cooperate in any way  
14 with the ongoing civil review.

15 Q And was your -- was your function limited  
16 to responding to PLS questions?

17 A No, sir.

18 Q So how much of your time following your  
19 removal from the criminal investigation did you spend  
20 on Madison-related matters?

21 A I don't know the exact hour figure.

22 Q Well, I'm not asking you for the exact

1 number of hours, but in terms of the proportion of  
2 your time, could you say whether it was more than  
3 half or less than half?

4 A Throughout the duration of that period of  
5 civil review, I will characterize it as a significant  
6 amount of time.

7 Q Well, let's talk about what the period was  
8 and whether it was more than half your time.

9 So let's start with, first, what period of  
10 time was this from the time that you were removed  
11 from the responsibilities which I believe you've  
12 indicated was about November 9 --

13 A Yes, sir.

14 Q -- until this period of civil review was  
15 over, what period would that be?

16 A That would have covered the time frame from  
17 November until I believe mid to late April of 1994.

18 Q So approximately six months?

19 A Yes, sir.

20 Q And would you say that you spent more or  
21 less than half of your time on Madison-related  
22 matters during that six-month period?

1 A I would say I spent at least half of my  
2 time.

3 Q And if you were to put a sharper point on  
4 your pencil, what percentage would you go beyond half  
5 of your time?

6 A It's difficult for me to assign a  
7 percentage to it.

8 Q Would it be almost all of your time?

9 A No, sir.

10 Q Ninety percent?

11 A It's just very difficult for me to put a  
12 percentage on it.

13 Q So it's somewhat more than half of your  
14 time, and beyond that, you can't really say?

15 MR. FORSHEY: Mr. Ben-Veniste, I think  
16 she's answered your question. She indicated it's at  
17 least half her time, and she indicated she can't give  
18 you a better percentage.

19 BY MR. BEN-VENISTE:

20 Q Is that right?

21 A Yes, sir.

22 Q Okay. Was this -- this assignment to

1 the -- to spend more than half of your time in the  
2 civil-related matter reflected in any kind of  
3 documentation, internal paperwork within the RTC, to  
4 the best of your knowledge?

5 A I'm not sure I understand your question.

6 Q Was there some memorandum that this is what  
7 you were to do and that it would be appropriate for  
8 you to spend more than half your time on it?

9 A Not that I am aware of.

10 Q Did you maintain time records for the  
11 period from November '93 through April '94?

12 A Yes, I did.

13 Q And did you reflect that you were spending  
14 more than half of your time on Madison-related  
15 matters in those time records?

16 A With regard specifically to the civil  
17 review, I'd have to go back and look.

18 Q Well, with regard to -- to anything related  
19 to Madison since you were off the criminal  
20 investigation.

21 My question is whether you reflected in  
22 your time records that you were working on Madison



1 during that six-month period.

2 A To some extent, yes.

3 Q To the extent of roughly the amount of time  
4 you were spending?

5 A No.

6 Q Did you make a conscious decision that you  
7 would not reflect in your time records the time you  
8 were spending on Madison accurately?

9 A No, sir, I did not make a conscious  
10 decision to that effect.

11 Q And so how did it come to be that you did  
12 not so reflect the time spent on Madison on your time  
13 records?

14 A That is a two-part answer. First, RTC time  
15 sheets go in -- in anticipation of what will be  
16 worked on the following week, so generally we do not  
17 have the opportunity up front to provide exactly what  
18 it is that we've worked on every week, so you do your  
19 best estimates anticipating what your future workload  
20 will be.

21 Second, I put in additional time working on  
22 additional projects as instructed by Mr. Ausen and

1 Mr. Iorio that the time was not noted on my time  
2 sheet as Madison.

3 Q Did they indicate to you that you shouldn't  
4 put it down on your time sheets as Madison, is that  
5 what you're saying, or are you saying something  
6 different?

7 A I'm saying that the -- the consensus  
8 between the two of them was I should continue to work  
9 on these projects and as I had been removed from the  
10 Madison investigation, keep a record of the time that  
11 I did spend.

12 Q So they told you to keep an accurate  
13 record?

14 A Of my own, yes, sir.

15 Q But not put it on the official time sheets;  
16 is that what you're saying?

17 A That's correct.

18 Q Okay. And when did that conversation take  
19 place where Mr. Ausen and Mr. Iorio instructed you to  
20 handle your records in that way?

21 A I don't recall the specific date.

22 Q Well, was it in November shortly after you

1 were released of your responsibilities in the  
2 criminal investigation?

3 A I can't recall the exact date.

4 Q Well, I'm not asking for the exact date,  
5 but do you have a recollection that it was sometime  
6 within weeks of when you were removed from the  
7 criminal investigation?

8 A Yes, sir, it was within weeks.

9 Q Okay. And where did you have this  
10 conversation with Mr. Ausen and Mr. Iorio?

11 A I don't recall the exact location.

12 Q Well, did you maintain some -- was it  
13 inside your offices --

14 A Yes, sir.

15 Q -- somewhere or was it off premises?

16 A No, sir, it was within the offices.

17 Q So in substance they said we would like you  
18 to continue to work on the Madison matter, but we  
19 would like you not to keep detailed time records in  
20 the official time records relating to the time you  
21 spent?

22 A That's not entirely accurate.

1 Q Okay. Well, tell me where it's not.

2 A There was a particular project that they  
3 had asked me to work on that was not inclusive of the  
4 Madison investigation proper.

5 Q What was that?

6 A An analysis of news articles, they were  
7 appearing in the press.

8 Q So they wanted you to perform in addition  
9 to whatever you were helping out with on Madison to  
10 keep abreast of the news articles that were coming  
11 out on Madison?

12 A Yes, sir, and in addition to the other work  
13 I was doing on my other investigations.

14 Q Okay. And so the Madison work plus the  
15 work, keeping abreast of the news articles, that was  
16 not to be reflected on your time records, is that  
17 what you're saying?

18 A Yes.

19 Q And where did you keep the second set of  
20 books on your time records? Where did you maintain  
21 those hours?

22 A I made notes on a -- on my desk calendar

1 and ultimately compiled them into a single document  
2 that reflected all of the time that I had spent.

3 MR. GIUFFRA: Would you reread back the  
4 last answer, please?

5 (The reporter read the record as requested.)

6 BY MR. BEN-VENISTE:

7 Q And did you have a special code that you  
8 used on your desk calendar to reflect the time spent  
9 on the Madison-related matters?

10 A No, sir, I just noted the hours, that's  
11 all.

12 Q Just -- what did it say, just a number?

13 A Just a number and then designation -- well,  
14 I also did -- I'm going to confuse myself. I also  
15 designated my regular overtime on my desk calendar as  
16 well.

17 Q And what -- what symbols did you use to  
18 keep those numbers straight?

19 A My regular overtime I would designate the  
20 number and then put OT beside it.

21 Q And Madison?

22 A I believe I just wrote the number on a

1 calendar.

2 Q So as not to reflect what that was relating  
3 to to somebody who might come in and look at it?

4 A So as not to confuse that with the actual  
5 overtime hours that I was working at that point.

6 Q Not to quibble about it, but the overtime  
7 hours were reflected by the initials OT next to that,  
8 so that wouldn't be something that would be  
9 confusing, would it?

10 A Not to me, no.

11 Q Okay. So your calendars for '93 and '94  
12 during the period we were talking about would have on  
13 a daily basis a reflection of the hours spent?

14 A No, sir, it was not done on a daily basis.

15 Q And on what basis was it done?

16 A When I worked on the article analysis, on  
17 which days I worked on the article analysis, I would  
18 denote that to the calendar.

19 Q And it was just for the article analysis?

20 A Yes, sir, up to the point of the civil  
21 review, that's correct.

22 Q And then the civil review, how would you

1 denote that time?

2 A The standard RTC standard time keeping  
3 procedures.

4 Q You would reflect the time on the civil  
5 matter?

6 A Yes, sir, that's correct.

7 Q So I would imagine that that would be the  
8 bulk of this more than half of your time was  
9 attributed to the civil procedures; correct?

10 A Yes, sir.

11 Q And then what did you do with all of that  
12 time at the end of the -- of this period, did you  
13 break it out, do some memo to account for it?

14 A Is your question where specifically to the  
15 time that I was logging on my calendar from the  
16 article analysis?

17 Q Yes, right.

18 A Yes, sir, I did compile it into one final  
19 document.

20 Q And where is that document? Have you  
21 provided that to us?

22 A That document was within the RTC files.

1 Q Have you provided it to us?

2 A I do not recall if I have a copy within my  
3 records.

4 Q And how much time did that come out to be?

5 A It was close to 200 hours, but I don't  
6 recall the exact number of hours.

7 Q So that's 200 hours over six months of  
8 looking at newspaper stories?

9 A No, sir, that's not accurate.

10 Q What else would be included?

11 A As I recall in the front end of that, there  
12 was some additional -- there was some additional time  
13 in there that did not relate to the newspaper  
14 analysis, but I would have to go back and look to  
15 refresh my memory as to what that was.

16 Q Well, what did it relate to?

17 A I really don't recall.

18 Q You just wrote it down and totaled it up  
19 but you don't remember what it related to?

20 A I remember making notes from September and  
21 October, but I don't recall exactly what those hours  
22 were for.



1 Q But with respect to the other work you did  
2 on the civil Madison matters, your time records would  
3 reflect that that's what you were working on and that  
4 was accurate?

5 A As accurate as I could make it given the  
6 time constraints imposed by the RTC guesstimate on  
7 time sheets.

8 Q And would that be reflected in this  
9 document, this compilation of time that you've talked  
10 about?

11 A No, sir, that would be reflected in the RTC  
12 time sheets.

13 Q Okay. So -- so for that six-month period,  
14 roughly better than half of your time would be  
15 reflected on the official sheets for Madison civil?

16 A If I understand your question correctly,  
17 yes, sir.

18 Q And the designation for Madison civil was  
19 what?

20 A The designation on the time sheet would  
21 have fallen under thrift number 7236.

22 Q Okay. Now, prior to the time you sent the

1 first criminal referral over to the U.S. Attorney's  
2 Office in Little Rock relating to Madison, had you  
3 been offered any other position in any other part of  
4 the country?

5 A Yes.

6 Q And what had you been offered?

7 A I was offered a staff position in the  
8 Washington RTC office working with Mr. Ken Baker and  
9 Mr. Ken Donahue.

10 Q And that would be Washington, D.C.?

11 A That's correct.

12 Q And when were you offered that position?

13 A I recall the time frame being shortly after  
14 I moved to Kansas City, so that would have been  
15 mid to late 1992.

16 Q There isn't any suggestion, is there, that  
17 this offer was made to get you away from working on  
18 the Madison matter, is there?

19 A None that I have ever heard.

20 Q Now that you think about it, do you have  
21 any reason to believe that was the case?

22 A No, sir. My understanding was Mr. Dudine

1 made the decision there would be no more field staff  
2 being brought into the Washington staff level  
3 office.

4 Q And was that the only offer that was made  
5 to you with respect to Washington?

6 A Yes, sir, I believe so.

7 Q Had you accepted that offer?

8 A It was a tentative verbal offer that was to  
9 be firmed up in writing and I had accepted it on a  
10 tentative basis before it could be actually firmed in  
11 writing, the decision was made not to pull any more  
12 field personnel in.

13 Q Did you ever tell anybody that you had  
14 turned it down?

15 A No, sir, not that I recall.

16 Q And did you ever tell anybody that you  
17 thought that your work in connection with the first  
18 criminal referral might affect the course of history?

19 A No, sir, not that I recall.

20 Q Wouldn't that be something you would  
21 recall?

22 A I would certainly hope so.

1 No.

2 Q So basically you're saying that didn't  
3 happen?

4 A No.

5 Q Now, let me turn to the matter of the tape  
6 recording that Mr. Giuffra brought up.

7 When did you know that Ms. Breslaw was  
8 going to be coming to Washington?

9 MR. GIUFFRA: You mean Kansas City.

10 MR. BEN-VENISTE: I'm sorry, Kansas City.

11 THE WITNESS: I don't recall the exact date  
12 that I learned she was coming, but it was pretty  
13 shortly prior to the civil review team's arrival  
14 there.

15 BY MR. BEN-VENISTE:

16 Q And do I understand your answer to  
17 Mr. Giuffra's question relating to contact with the  
18 FBI to be that you had no contact with the FBI in  
19 terms of following up on the criminal referral, the  
20 1992 criminal referral until some point in December  
21 of 1992?

22 A If I had my administrative file, I could

1 certainly reflect or refresh my recollections on  
2 that, but that is what I recall, yes.

3 Q And you indicate -- so you contacted the  
4 FBI once in December of '93, and that's the only  
5 contact you recall in terms of follow-up in -- I'm  
6 sorry, in 1992, I misspoke, in 1992?

7 MR. GIUFFRA: I don't think that's what she  
8 testified to before.

9 THE WITNESS: Sitting here, off the top of  
10 my head, that's what I recall, which is why if I had  
11 my documents, I could certainly say.

12 BY MR. BEN-VENISTE:

13 Q Well your lawyer is certainly free to help  
14 you with any documents you wish to review. You have  
15 done so without objection from us as you have  
16 requested previously.

17 MR. FORSHEY: Well, Counsel, those  
18 documents have all been turned over, the  
19 administrative files.

20 MR. LEVIN: Do you have a set here?

21 MR. FORSHEY: Let's have it.

22 MR. BEN-VENISTE: Why don't we do it at a

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1 break so we don't take time out of this, but at the  
2 first break, you can review whatever materials on the  
3 issue of contact in 1992.

4 By MR. BEN-VENISTE:

5 Q With respect to April Breslaw, you  
6 indicated that you had learned at some point prior to  
7 her arrival that she was going to come, and  
8 approximately how many days in advance?

9 A I don't recall.

10 Q More than one?

11 A I don't recall.

12 Q Did you discuss the fact that she would be  
13 visiting with anyone?

14 A Not to my recollection.

15 Q Well, who told you she was coming?

16 A Mr. Iorio.

17 Q And he just said Ms. Breslaw is coming and  
18 there was no discussion?

19 A As I remember, he informed me along with  
20 other criminal investigative staff the civil review  
21 team would be arriving from Washington and it would  
22 be comprised initially of Mr. Gary Watts and

1 Ms. April Breslaw.

2 Q Now, did you have any discussion with  
3 Mr. Iorio about having -- about your having a  
4 conversation with Ms. Breslaw?

5 A Yes, sir.

6 Q And when was that?

7 A The date Ms. Breslaw was actually in Kansas  
8 City.

9 Q And what was the nature of the  
10 conversation?

11 A He indicated to me that Ms. Breslaw wanted  
12 to speak with me, and I told him I would be available  
13 at her convenience.

14 Q And when did he tell you that, in the  
15 morning?

16 A I believe so, I believe it was before they  
17 went to lunch.

18 Q And who all went to lunch?

19 A I was not there, but I have been advised  
20 that Mr. Ausen and Mr. Iorio and Ms. Breslaw,  
21 Ms. Bobby Matthews, Mr. Gary Watt, Mr. Albert Corbin  
22 and April Breslaw was there, and I think that's all.

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1 Q Is there some reason why you were not  
2 invited or didn't attend?

3 A Not to my knowledge; but, then, again,  
4 neither were any of the other criminal investigators  
5 except Mr. Ausen.

6 Q So Mr. Iorio told you before they went to  
7 lunch that Ms. Breslaw would like to speak to you,  
8 you indicated that you would be available at her  
9 request, then the group came back from lunch, and  
10 what happened?

11 A Later that afternoon at some point, I poked  
12 my head in Mr. Iorio's office and asked him if he had  
13 seen Ms. Breslaw, knew where she was, and he  
14 indicated to me she was working in the conference  
15 room down the hall from him, and I went in and told  
16 her I found her note and was available at her  
17 convenience.

18 Q And what note was that?

19 A When I returned from lunch, I found a note  
20 in my desk chair that said would like to speak with  
21 you, sorry I missed you, we'll see you after lunch  
22 and it was signed April --



- 1 Q Okay.  
2 A -- or April B. is I believe what it said.  
3 Q And you went to the conference room, and  
4 what was the conversation?  
5 A It was very brief. I told her I was  
6 available when she wanted to talk and she said she  
7 was almost through with what she was doing.  
8 Q And how were you two to then get together?  
9 A She said she would come to my office and  
10 find me.  
11 Q And is that what happened?  
12 A Yes, sir.  
13 Q And you didn't go to get her at the  
14 conference room --  
15 A No.  
16 Q -- to take her back, she found her way to  
17 your office?  
18 A That's correct.  
19 Q Okay. Now, do you remember about what time  
20 this was that she came to your office?  
21 A Yes, sir, it was late afternoon.  
22 Q About what time?
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- 1 A As I recall, it was around 3:55 in the  
2 afternoon.  
3 Q And about what time had you had this  
4 conversation about receiving her note?  
5 A I would estimate it was between 2:00 and  
6 3:00 o'clock.  
7 Q So a good bit later, over an hour later she  
8 came down to your office?  
9 A Yes, sir, as I recall, yeah.  
10 Q Okay. And now at this time I believe  
11 you've testified you had a tape recorder on your  
12 desk, and we had made a request for that tape  
13 recorder, but we understand that you have thrown it  
14 away sometime ago; is that correct?  
15 A Yes, sir.  
16 Q But you had had it for I think you said  
17 eight years?  
18 A Yes, sir.  
19 Q And was that your personal property or had  
20 that been issued to you as part of some official  
21 duty?  
22 A No, that was my personal property.

1 Q Okay. And what type of tape recorder was  
2 it?

3 A It was a -- an Olympus Pearl Corder that I  
4 had obtained in 1986.

5 Q An Olympus Pearl Corridor, is that what you  
6 said?

7 A I believe that was the brand name, yes.

8 Q Was it a minicassette or a larger cassette?

9 A A microcassette.

10 Q Microcassette. And was it a  
11 voice-activated recorder?

12 A No, sir.

13 Q And you know the difference?

14 A Yes, I do. I'm trying to clarify the  
15 difference in my own mind between a minicassette and  
16 a microcassette, I think one is a little smaller than  
17 the other and mine -- and the old one were  
18 minicassettes, I believe.

19 Q Okay.

20 A I'm sorry, I don't remember exactly.

21 Q I was asking whether you understood the  
22 difference between voice activated and

1 non-voice-activated.

2 A Yes.

3 Q And this was a non-voice-activated  
4 recorder?

5 A That's correct.

6 Q And you've indicated that you would use  
7 that tape recorder for the purpose of making notes to  
8 yourself during the course of a day; correct?

9 A Yes, sir.

10 Q Was it used for any other purpose?

11 A No, sir.

12 Q Did you ever use it to tape record a  
13 meeting?

14 A No, sir.

15 Q Did you ever use it to tape record a  
16 telephone conversation?

17 A No, sir.

18 Q You've indicated that it would go on by  
19 itself at times when you did not intend it to go on;  
20 is that correct?

21 A Yes.

22 Q And this was one of those days, February

1 2nd, I believe, 1994 --

2 A Yes, sir.

3 Q -- when it went on by itself; correct?

4 A Correct.

5 Q Now, do you have -- other than the  
6 microcassette which you've turned over to independent  
7 counsel that we talked about at the very beginning of  
8 the day today, any other tape recordings made on that  
9 tape recorder?

10 A No, sir, not that I have located.

11 Q Have you looked for them?

12 A Yes, sir.

13 Q You would use this tape recorder on a  
14 pretty regular basis?

15 A Yes, sir.

16 Q And what would be your practice with  
17 respect to the microcassettes, would you continue to  
18 reuse those?

19 A Yes, sir.

20 Q And had the microcassette which was used  
21 on -- strike was used -- which captured in the  
22 conversation that you had with Ms. Breslaw in

1 February the 2nd a microcassette which you had used  
2 previously?

3 A I don't recall.

4 Q You don't know if it was a new one that you  
5 had put in the machine or whether that was one which  
6 had been used previously?

7 A That's correct, I don't recall.

8 Q And what was the -- your practice with  
9 respect to changing the microcassettes, when would  
10 you decide to use a new one?

11 A When the recorder developed this hiccup, I  
12 found I had better results when I generally used  
13 newer tapes, so rather than reusing old tapes as the  
14 recorder was beginning to age and have its problems I  
15 tried to get into the practice of using newer tapes,  
16 so I bought a supply of them.

17 Q When did you buy them?

18 A I had a supply at home and I purchased a  
19 new supply late January or early February I believe.

20 Q So you might have purchased a new supply  
21 just before this meeting that you had with  
22 Ms. Breslaw?

1 A Yes, sir.

2 Q And do you recall where you purchased these  
3 cassettes?

4 A No, sir, I'm sorry, I don't.

5 Q Was there a stationery store that you  
6 utilized regularly for your personal supplies?

7 A No, sir, I'm somewhat of a bargain  
8 shopper.

9 Q So you think it was just fortuitous that  
10 you happen to purchase this supply of new cassettes  
11 just before this meeting?

12 A Fortuitous, no, sir, it was -- I tried to  
13 keep a supply on hand so I was probably just  
14 restocking my supply.

15 Q What did you did with the used  
16 microcassettes?

17 A Discarded them after a period of time.

18 Q So as of the time that you were meeting  
19 with Ms. Breslaw, you wouldn't have in your office  
20 old used microcassettes?

21 A Probably not.

22 Q And did you use that tape recorder again

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1 with respect to any reason after Ms. Breslaw's  
2 conversation with you?

3 A I attempted to use it on additional  
4 occasions for my daily activities as I had in the  
5 past and it had finally died.

6 Q And when was that?

7 A It seems to me it was within a week after I  
8 had had that conversation with Ms. Breslaw.

9 Q And when you say it died, you mean what?

10 A It simply ceased to function period.

11 Q It couldn't get it to record any more --

12 A Correct.

13 Q -- or could it record or you couldn't play  
14 it back, which was it?

15 A All of the above.

16 Q Couldn't record, couldn't play it back,  
17 couldn't fast forward, nothing?

18 A None of the functions would work, I tried  
19 new batteries, nothing.

20 Q That was about a week later?

21 A As I recall, yes, sir.

22 Q And prior to the time that it died, you



1 were able to use it on some occasions following  
2 Ms. Breslaw's meeting?

3 A I remember trying, but I don't remember how  
4 successful the attempts were.

5 Q And then you went out and bought a new one?

6 A That's correct.

7 Q And what kind did you buy?

8 A I bought another Olympus Pearl corder.

9 Q Loyal.

10 And when did you buy it?

11 A I'm sorry, I didn't hear you,

12 Mr. Ben-Veniste.

13 Q When did you buy it?

14 A When did I buy it?

15 Q Yes.

16 A I believe it was around the middle of  
17 February.

18 Q And where did you buy it?

19 A As far as I recall, I bought it at the  
20 Office Depot or Office Max that was not too far from  
21 where I lived at the time.

22 Q And where was that?

1 A Shawnee Mission, Kansas.

2 Q And did you pay for it in cash or with a  
3 credit card or check, do you recall?

4 A I purchased it with my credit card.

5 Q And which credit card would that have been?

6 A It was a Visa card.

7 Q And do you still have that Visa card?

8 A No, sir.

9 Q Do you still do business with Visa?

10 A Yes.

11 Q And have you had a renewed card since then?

12 A Perhaps that warrants an explanation. It  
13 was a Visa debit card directly off of a checking  
14 account, that checking account was closed when my  
15 husband and I married and we reopened a new one and  
16 subsequently got another Visa debit card.

17 Q So when would that have been?

18 A I don't remember the exact date that we did  
19 that.

20 Q When did you marry?

21 A January 1994.

22 Q Well, if this was in February of 1994, this

1 would have been still on your old card with your old  
2 checking account and you hadn't yet gotten around to  
3 changing it?

4 A That's correct.

5 Q And what bank was this account with?

6 A Mark Twain Bank in Kansas City.

7 Q Now, these microcassettes that you were  
8 using over this eight-year period that you owned the  
9 first of these two tape recorders, how -- how long on  
10 each side did you -- they provide for recording?

11 A They both were capable of playing at two  
12 speeds and on the slower speed up to an hour per side  
13 of the tape could be used.

14 Q And in connection with the way you used the  
15 tape recorder on a daily basis to make your notes,  
16 did you use it on the slower speed or the faster  
17 speed?

18 A Slower speed.

19 Q You might have as much as an hour for  
20 purposes of dictating your notes?

21 A Correct.

22 Q You always kept it on the slower speed, in

1 other words?

2 A I'm sorry, I didn't hear you.

3 Q You always kept it on the slower speed?

4 A Yes, sir.

5 Q And a representation has been made that the  
6 tape recording that has your conversation with  
7 Ms. Breslaw on it that is in the possession of the  
8 independent counsel's office had on its other side  
9 other material which had been recorded at your  
10 office; is that correct?

11 A Yes.

12 Q And what is on the other side?

13 A Various conversations of people who had  
14 come into and then left my office and specifically a  
15 conversation between myself, J. Jankowsky and Mike  
16 Karen regarding a FOIA request relating to Mr. Seth  
17 Ward.

18 Q A FOIA request relating to Mr. Seth Ward?

19 A Yes, sir.

20 Q And when did that occur?

21 A The conversation?

22 Q Yes.

- 1 A To the best of my recollection, sometime  
2 after I returned from lunch, but well before  
3 Ms. Breslaw showed up in my office.  
4 Q So on the same day, the 2nd of February?  
5 A Yes, sir.  
6 Q Okay. And when had the FOIA request come  
7 in?  
8 A I don't recall the exact date.  
9 Q So is it the case that the whole hour was  
10 taken up by that conversation on the microcassette?  
11 A Which conversation?  
12 Q The one involving the FOIA request.  
13 A I don't believe it was a whole hour on just  
14 that conversation.  
15 Q Did you dictate that day into the machine?  
16 A I don't think I did.  
17 Q Did you realize that you had recorded  
18 Mr. Iorio and others on that day, February 2nd?  
19 A Yes, I did after the fact.  
20 Q When?  
21 A After the fact.  
22 Q After what fact?
- 

- 1 A After the conversation had occurred with  
2 Ms. Jankowsky and Mr. Karen I realized what had  
3 happened.  
4 Q You realized what had happened?  
5 A The recorder had been on and captured the  
6 conversation.  
7 Q And how did you realize that?  
8 A I picked it up, the red light was on and it  
9 was still recording.  
10 Q And then did you turn it off?  
11 A Yes, I turned it on and I turned the tape  
12 over.  
13 Q And did you dictate anything by way of  
14 notes or other thoughts that day?  
15 A I remember dictating some notes with regard  
16 to the conversation I had with Mr. Karen and  
17 Mr. Jankowsky, but I don't recall if it was that same  
18 afternoon or not.  
19 Q And is that dictation reflected on the same  
20 microcassette as the inadvertent recording of  
21 Mr. Iorio and Ms. Jankowsky?  
22 A I don't recall.

1 Q So you turned off the recorder and you  
2 didn't dictate any other notes, you just turned the  
3 tape over in the machine?

4 A As I recall it, yes.

5 Q Is there any reason why you didn't rewind  
6 it?

7 A Yes.

8 Q What reason was that?

9 A The conversation that Ms. Jankowsky and  
10 Mr. Karen and I had was very specific with regard to  
11 lots, ranges, townships on this particular piece of  
12 property involving Mr. Word, and there was some  
13 confusion with regard to its full location and  
14 because there were issues that we did resolve during  
15 those conversations, I chose to keep it so I could go  
16 back and refer to as I continued to go through the  
17 FOIA request.

18 Q Had you made any notes during that  
19 conversation?

20 A Yes, I believe I did.

21 Q And those notes you felt were not adequate  
22 for your purposes that you needed the tape recording

1 to help you?

2 A I recall Ms. Jankowsky giving me a sheet a  
3 paper that she had been writing on and had summarized  
4 the FOIA request, she handed it to me, and I remember  
5 scratching some notes on the side of that paper.

6 Q You didn't have -- you didn't make notes  
7 during the course of the conversation you say?

8 A That's correct.

9 Q And how long did that conversation last?

10 A I recall it was a fairly extensive  
11 conversation, but I don't remember exactly how long  
12 it took.

13 Q Almost an hour?

14 A It's conceivable that it took anywhere from  
15 30 minutes to an hour.

16 Q And when you say you turned the tape over  
17 and put it back in the machine --

18 A Yes, sir.

19 Q -- did you fast forward it or rewind it?

20 A No, sir -- I think I just turned it over  
21 and -- well, I take that back. I'm a creature of  
22 habit, I would fast forward to the end of that side



1 so I would have all of that.

2 Q When you say you're a creature of habit,  
3 this is the way you would normally deal with a  
4 cassette, a microcassette, tape record when you turn  
5 it over?

6 A So I could effectively use both sides,  
7 yes.

8 MR. FORSHEY: Can we take a very brief  
9 break, I apologize?

10 MR. BEN-VENISTE: I don't require one now  
11 but I'd like to finish this area now if we might.

12 Do you mind if we just spend a few more  
13 minutes on it?

14 MR. FORSHEY: Well, I'd prefer if you give  
15 me two or three minutes to run to the men's room.

16 MR. BEN-VENISTE: Okay.

17 (A brief recess was taken.)

18 MR. BEN-VENISTE:

19 Q To the best of your knowledge, Ms. Lewis,  
20 have you supplied us with all of your home phone  
21 records as requested in our letter request?

22 A No, sir.

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1 Q And which ones remain to be produced?

2 A I believe August of 1992 is still pending  
3 with Southwestern Bell.

4 Q And when did you make the request of  
5 Southwestern Bell?

6 A October 18th.

7 Q And did they provide you with other  
8 information?

9 MR. FORSHEY: Other than what?

10 MR. BEN-VENISTE: Other than August, the  
11 August request.

12 THE WITNESS: Oh, yes, sir.

13 BY MR. BEN-VENISTE:

14 Q So this is sort of rolling production on  
15 their part.

16 A There's just one month left to produce.

17 Q Just August?

18 A Yes, sir.

19 Q And do you have some correspondence with  
20 them where they've indicated they were having some  
21 problem with August?

22 A No, sir, I had a conversation with them.

1 Q What was your office phone number, do you  
2 recall?

3 A My Kansas City office phone number?

4 Q In August of 1992.

5 A 816-968-2737.

6 Q Now, you have provided us with copies of  
7 certain he E-mails relating to the Madison  
8 investigation; is that correct?

9 A Yes, sir.

10 Q Have you had the opportunity to determine  
11 whether the E-mails which you produced are all the  
12 E-mails which you either authored or received  
13 relating to Madison during the period in question?

14 A I did my best to keep my file documented  
15 with incoming and outgoing E-mails.

16 Q And is that a yes or I don't know?

17 A That's an I don't know.

18 Q So there may be E-mails on the subject  
19 either authored by you or received by you which have  
20 not been produced to us so far as you know?

21 A Yes, sir, it's possible.

22 Q Have you made any effort to -- at any point

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1 to erase any disks related to your personal computer  
2 at your office?

3 A No, sir.

4 Q Have you made any effort to retrieve from  
5 any disks or hard drive any E-mails that you may have  
6 authored or received relating to Madison Bank?

7 A Yes, sir.

8 Q And when was that?

9 A I can't recall the exact date that I made  
10 the request, Mr. Ben-Veniste -- I retract that. I am  
11 confusing that with another investigation for which I  
12 did try and retrieve an old E-mail, it was not  
13 Madison, I apologize.

14 Q So give us the state of your best knowledge  
15 in answer to my question.

16 A I don't recall having tried to retrieve any  
17 other E-mails off of my hard drive system if I'm --  
18 if I'm remembering your question correctly.

19 Q Right. In other words, you might have  
20 copies, hard copies of E-mails in your files, and to  
21 the best of your knowledge, any of those relating to  
22 Madison Bank have been turned over to us; correct?

1 A Yes, sir, that's correct.

2 Q But with respect to materials that you may  
3 have received either electronically at some point or  
4 even by hard copy with, a hard copy having been  
5 discarded for some reason, you can't make that same  
6 representation?

7 A I'm not sure I'm following your question.

8 Q It might be the case that you received an  
9 E-mail, but it was not produced in hard copy at any  
10 point; correct?

11 A That's possible, yes.

12 Q Was it your procedure to always print out a  
13 hard copy of an E-mail that you received?

14 A If it was related to a specific  
15 investigation, yes, sir, I always attempted to do  
16 so.

17 Q And did you always make a hard copy of any  
18 E-mail that you sent out?

19 A Again, specifically relating to an ongoing  
20 investigation, yes, I did attempt to do so.

21 Q So then you would have a fair level of  
22 confidence that we -- that you have produced or we

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1 have all of the E-mails relating to Madison Bank that  
2 you either received or sent from the summer of 1992  
3 on?

4 A Yes, sir, I would have a fairly high level  
5 of confidence.

6 Q Okay. Now, going back to February of 2nd,  
7 1994, when Ms. Breslaw came into your office, what  
8 were the first words spoken?

9 A Come in, come in.

10 Q And when you listened to the tape recording  
11 of that conversation, do those words occur at the  
12 very beginning of the tape?

13 A Yes, sir.

14 Q And when I say at the very beginning of the  
15 tape, I mean that the spool of the microcassette  
16 contains no other information?

17 A Oh, no, sir. No, sir, that's not correct.

18 Q Okay. So when I'm talking the tape, I'm  
19 talking about the microcassette.

20 A Okay.

21 Q Now, when I asked you whether the words  
22 come in, come in are at the beginning of the tape, I

1 mean to ask you whether there was any material on the  
2 tape prior to that?

3 A I believe there is.

4 Q And how many minutes worth?

5 A I don't recall.

6 Q Approximately?

7 A I can't even approximate. I don't recall.

8 Q It could be 40 minutes? It could be one  
9 minute?

10 A I can't recall.

11 Q Well, what is there that you can hear on  
12 the tape prior to that, can you hear your voice?

13 A I recall that there is some space on the  
14 tape before the conversation actually began, but I  
15 don't recall how much or what was actually captured  
16 on tape prior to that time.

17 Q Was this -- when you turned the  
18 microcassette over to independent counsel, what month  
19 was that?

20 A March 1994.

21 Q And how many times had you played the tape  
22 prior to that time or any portion of it?

1 A My best estimate is four.

2 Q Four times?

3 A I believe so.

4 Q And when did you first play it?

5 A For myself.

6 Q And when was that?

7 A It was either late that same evening or  
8 fairly early the next morning.

9 Q You don't remember which?

10 A No, sir, I'm sorry, I don't.

11 Q Well, about how long did the meeting take?

12 A Forty minutes, I believe.

13 Q About 40 minutes?

14 A Uh-huh.

15 Q And what did you do after the meeting  
16 concluded on the 2nd?

17 A I went back to work on a project that I had  
18 due to Mr. Iorio by close of business that  
19 afternoon.

20 Q And what project was that?

21 A It had to do with numerous questions on the  
22 civil review that we had received from PLS that



1 required responses.

2 Q So did you work late that day?

3 A I'd have to look at my records to recall  
4 for sure.

5 Q And what records would those be?

6 A Time sheets.

7 Q And do you have those?

8 A Not with me, no, sir.

9 Q But you have them?

10 A I'm sure I have copies of my time records  
11 somewhere, yeah.

12 Q And have those been turned over to us so  
13 far as you know?

14 A No.

15 Q And why haven't they been?

16 A Those time sheets encapsulated all the time  
17 I've started working at the RTC since 1991, they were  
18 not all relative to just Madison.

19 Q Well, we understand that, that's why we  
20 asked more specifically for matters relating to  
21 Madison as a review of our request would show.

22 Was this a decision that you made yourself

1 or was this a decision counsel made?

2 MR. FORSHEY: I'm going to object, have her  
3 not to disclose any communications with counsel.

4 BY MR. BEN-VENISTE:

5 Q Was this a decision you made yourself not  
6 to disclose your time sheets?

7 A No, sir.

8 MR. LEVIN: Excuse me.

9 (Counsel confers.)

10 MR. GIUFFRA: Let your counsel finish  
11 conferring before you answer the question.

12 Go ahead.

13 THE WITNESS: It never even entered my mind  
14 as a conscious thought that time sheets would be  
15 responsive.

16 BY MR. BEN-VENISTE:

17 Q I see. Well, as you can see from prior  
18 questionings, they seem to have to do with Madison  
19 and we would request that the ones reflecting work on  
20 Madison be produced.

21 MR. FORSHEY: Mr. Ben-Veniste, to the  
22 extent those do exist and we can locate them and they

1 do relate to Madison, we will provide those prior to  
2 the November 2nd date that we have to provide  
3 documents.

4 Those certainly are RTC records in the  
5 possession of the RTC, and if your request has also  
6 gone to them, I assume you have been provided by the  
7 Resolution Trust Corporation.

8 MR. GIUFFRA: Insofar as you know,  
9 Mr. Forshey, are those documents those time records  
10 in the RTC as well with Ms. Lewis?

11 MR. FORSHEY: If there's official time  
12 records which that sounds like she's talking about.

13 THE WITNESS: Yes.

14 MR. BEN-VENISTE:

15 Q Okay. And with respect to the --

16 MR. GIUFFRA: One other point for -- just  
17 for the record -- let me finish.

18 MR. BEN-VENISTE: No, let me finish.

19 MR. GIUFFRA: Let me finish. I want to say  
20 one thing for the record --

21 MR. BEN-VENISTE: I started a question.

22 MR. GIUFFRA: This is the only witness that

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1 we're making these kind of the requests of a  
2 government employee, and, in fact, I think it would  
3 be proper to first direct the request for the time  
4 records to RTC rather than putting her to the expense  
5 and time of having her to produce the records.

6 MR. BEN-VENISTE: If you want to override  
7 the procedure that the chairman has indicated he's  
8 going to use, then you'll do that in some written  
9 communication, not in some comment on the deposition  
10 transcript.

11 BY MR. BEN-VENISTE:

12 Q With respect to the time records that were  
13 reflected on your calendars fourth, have those been  
14 turned over to the RTC?

15 MR. FORSHEY: To the RTC.

16 THE WITNESS: I don't know if I left those  
17 in the RTC's possession or if I took them with me  
18 when I left.

19 BY MR. BEN-VENISTE:

20 Q This would be your daily calendar?

21 A Yes, sir.

22 Q And is that a book or what is it?

- 1 A It's a week at a time calendar.  
2 Q Week at a glance kind of a calendar?  
3 A Yes, sir, week at a glance calendar.  
4 Q And you don't know whether you have copies  
5 of those that you've maintained or the originals for  
6 '92, '93?  
7 A I do not recall if I left the originals  
8 there with my records or if I took them when I left.  
9 Q Well, we would appreciate it if you would  
10 make another search for them since they may indeed  
11 contain material related to the request that we  
12 made.  
13 MR. FORSHEY: Once again, Mr. Ben-Veniste,  
14 we will review those. If you identify additional  
15 documents that may be out there, we'll certainly take  
16 a look for them provide them prior to the November  
17 2nd deadline.  
18 MR. BEN-VENISTE: Well, I appreciate that.  
19 MR. FORSHEY: Again to the extent they're  
20 in the possession of the RTC, I assume they've  
21 already been produced to you.  
22 MR. BEN-VENISTE: Well, that has not been

- 1 the basis upon which the request to you has been made  
2 as you know.  
3 MR. FORSHEY: That's not the basis upon  
4 which we have produced documents to you. We have  
5 made a search for relevant documents. We've provided  
6 everything that we've been able to identify to the  
7 best of our ability.  
8 BY MR. BEN-VENISTE:  
9 Q Now, your recollection is that you worked  
10 on a project that Mr. Iorio had given you that was  
11 time sensitive on the afternoon of the 2nd; correct?  
12 A Correct.  
13 Q And was that a written memorandum you were  
14 to get him or just the answer to some question he was  
15 asking?  
16 A It was a written document that I had to  
17 produce.  
18 Q And what was the nature of that document?  
19 A We had received several pages of questions  
20 relating to the criminal referrals from PLS staff in  
21 Washington, and Mr. Iorio had charged Mr. Karen and I  
22 with responding to those questions before close of

1 business on February 2nd.

2 Q And so there should be a memorandum  
3 authored by you in the file reflecting that work on  
4 the 2nd?

5 A Yes, sir.

6 Q And did you have occasion to discuss with  
7 Mr. Iorio your meeting with Ms. Breslaw that day?

8 A No, sir, I don't believe I did.

9 Q You didn't see him at all?

10 A Oh, I'm sure I saw him, but I don't recall  
11 having a discussion about the meeting with him.

12 Q So you saw him and you knew you had  
13 tape-recorded your conversation with Ms. Breslaw, but  
14 you have no reason to believe that you mentioned that  
15 fact to him --

16 A No, sir, I did not --

17 Q -- at that time?

18 A -- mention that fact at that time.

19 Q Okay. And you don't know whether you  
20 listened to the tape recording that evening or the  
21 next day for the first time?

22 A I don't recall.

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1 Q Okay. Where do you recall listening to it?

2 A I recall listening to it as I was sitting  
3 in my office.

4 Q And after you listened to it, did you  
5 rewind the tape?

6 A Yes, sir.

7 Q Did you make a copy of that tape recording  
8 at any point?

9 A Yes.

10 Q And when was that?

11 A It was within a brief period of time after  
12 the conversation, within days, but I can't give you  
13 the exact date. I don't recall the exact date.

14 Q Within days you say?

15 A Yes, sir.

16 Q And how did you make a copy?

17 A I asked my husband to duplicate it from the  
18 microcassette on to a regular-sized cassette.

19 Q And so you had discussed with your husband  
20 the fact that you had made this recording?

21 A Yes.

22 Q When did you first discuss with your



1 husband?

2 A When I asked him to make a copy of the  
3 tape.

4 Q So several days later, you first disclosed  
5 that you had made this tape to your husband?

6 A Within days of the conversation, yes.

7 Q And do you know where he took the tape to  
8 make this copy?

9 A Yes, sir.

10 Q Where was that?

11 A To the radio station where he is employed.

12 Q What is his job at the radio station?

13 A He's the news director.  
14  
15  
16

17 Q Did you tell him not to disclose anything  
18 that was on the tape to anybody?

19 A Yes, I did.

20 Q Because if there had been any disclosure of  
21 this information, that would have impeded the  
22 investigation you were working on?

1 MR. GIUFFRA: Would you reread that  
2 question back, please?

3 (The reporter read the record as requested.)

4 THE WITNESS: No, sir.

5 BY MR. BEN-VENISTE:

6 Q Did you feel that there were any  
7 confidential matters discussed in your conversation  
8 with Ms. Breslaw?

9 A Yes.

10 Q And did you not testify earlier today that  
11 confidential matters relating to RTC investigations  
12 if disclosed to third parties would necessarily  
13 impede the investigation?

14 MR. FORSHEY: Would necessarily.

15 MR. BEN-VENISTE: Excuse me, Mr. Levin,  
16 make objections here on the record.

17 MR. FORSHEY: Your question is would it  
18 necessarily impede --

19 MR. LEVIN: I wasn't talking,  
20 Mr. Ben-Veniste --

21 MR. BEN-VENISTE: Talk to co-counsel.

22 MR. LEVIN: -- on the record. I want to

1 reflect, Mr. Giuffra, and, Mr. Ben-Veniste, your  
2 effort to interfere with my counseling of my  
3 co-counsel to my client, I was speaking to my  
4 co-counsel. I did not object at all.

5 MR. BEN-VENISTE: Please be kind enough to  
6 refine your remarks to co-counsel --

7 MR. LEVIN: I did --

8 MR. BEN-VENISTE: -- in a manner that is --  
9 that does not appear on the record.

10 MR. LEVIN: If I chose to I will. If I  
11 chose not to, I will not do so, but I appreciate your  
12 advice.

13 MR. BEN-VENISTE: If you chose not to, we  
14 will have to take further steps relating to matters  
15 and the rules under which these depositions are  
16 conducted.

17 MR. LEVIN: What are the rules? May I have  
18 them, please?

19 MR. BEN-VENISTE: Let's take a break.

20 MR. LEVIN: Yeah, let's.

21 MR. BEN-VENISTE: Okay. Off the record.

22 (Discussion off the record.)

1 (Recess.)

2 BY MR. BEN-VENISTE:

3 Q I think we were talking about whether  
4 disclosure of confidential information relating to  
5 RTC investigations to third parties would, in your  
6 view, in and of itself interfere with those  
7 investigations. Did you mean to be that general in  
8 what you had said previously?

9 A Yes, I do believe disclosure creates  
10 problems for confidential information like that.

11 Q Do you believe that it creates problems or  
12 it might create problems?

13 A Might create a problem.

14 Q So if the matter relating to the copying of  
15 the tape was handled in a very discrete way by your  
16 husband, that might not relate to a problem or might  
17 not cause a problem relating to compromising any RTC  
18 investigation?

19 A Your question infers that he actually heard  
20 the tape.

21 Q Well, I don't know. I wasn't there.

22 A It was dubbed in the studio while he was

1 doing something else, wearing headphones and there  
2 was no one else present except myself.

3 Q You went along with it?

4 A Yes, sir, I did.

5 Q And when was that?

6 A It was within a few days of the  
7 conversation with Ms. Breslaw.

8 Q And up to that point you had told no one  
9 about it?

10 A That's correct.

11 Q Had you disclosed the substance of the  
12 conversation to anyone prior to copying the tape?

13 A Yes.

14 Q To whom?

15 A Mr. Ausen, Mr. Iorio.

16 Q And did you have a reason why you didn't  
17 tell them that you had recorded the conversation?

18 A No.

19 Q Now, what was the reason for making a copy  
20 of the tape?

21 A To ensure that when the original tape was  
22 transmitted to the independent counsel's office that

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1 there would be a duplicate copy in the unlikely event  
2 that it would be lost in transit.

3 Q So it was upon the request, or your  
4 intention to provide the tape to the independent  
5 counsel's office that a copy was made?

6 A Yes, sir.

7 Q And when were you contacted about providing  
8 a copy to the independent counsel?

9 A I did not discuss that matter until my  
10 first meeting with him in March.

11 Q So how would the copying process take place  
12 weeks before you had your first contact with him if  
13 your intention was to make a copy so that the copy  
14 you gave independent counsel wouldn't get lost?

15 A My copy was -- my intent was to ensure that  
16 I had a copy available in the event that the original  
17 got lost.

18 Q So what did you do with the original after  
19 you made the copy?

20 A I retained it until such time as I turned  
21 it over to the independent counsel.

22 Q Where did you keep it?

- 1 A In my office.  
2 Q Where?  
3 A Desk drawer.  
4 Q And did you label it?  
5 A I don't remember what label I put on it, if  
6 any.  
7 Q You don't remember whether you wrote on the  
8 original microcassette or not?  
9 A I don't recall if at that point I wrote on  
10 it.  
11 Q But you asked your husband to make a copy  
12 onto a regular size cassette, meaning the same size  
13 cassette that one might buy a commercial recording  
14 on?  
15 A Correct.  
16 Q And what did you do with the copy?  
17 A I maintained it for a brief period of time  
18 until meeting with the independent counsel, and then  
19 I sent it to Mr. Forshey.  
20 Q Where did you maintain it?  
21 A At home.  
22 Q Did you keep other documents relating to

- 1 your RTC work at home?  
2 A No, not as a general rule.  
3 Q Did you ever do so?  
4 A Yes, when I was working at home.  
5 Q So you would take the materials that you  
6 were working on home and then return them the next  
7 day when you went to the office?  
8 A That's correct.  
9 Q Did you ever decide that you would maintain  
10 copies at some place other than your office?  
11 A Yes.  
12 Q When was that?  
13 A After I retained Mr. Forshey.  
14 Q And when was that?  
15 A March of 1994.  
16 Q And what copies of what material did you  
17 make?  
18 A Copies of the referrals and exhibits and  
19 what was in my administrative file at the time.  
20 Q And where did you maintain those?  
21 A I'm sorry, I can't hear you.  
22 Q Where did you maintain those? I'm sorry.



- 1 A I maintained them at my residence.  
2 Q In the garage or where?  
3 A In a closet.  
4 Q In a closet. And what volume of material  
5 was it, a file drawer, more?  
6 A I think it comprised maybe one banker box.  
7 Q And when did you make the copies, during  
8 normal business hours?  
9 A I did not make the copies.  
10 Q Who did?  
11 A Ann Lewis Richardson who was a clerk in the  
12 criminal investigations department.  
13 Q At your request?  
14 A Yes, sir.  
15 Q And what did you say to her about making --  
16 the purpose for which these copies were made?  
17 A I did not discuss the purpose with her.  
18 Q Did you disclose the purpose to anyone?  
19 A No, sir.  
20 Q And then you sent them to your attorney,  
21 did you say?  
22 A Ultimately I gave them to my attorney, yes.
- 

- 1 Q When was that?  
2 MR. FORSHEY: You can answer.  
3 THE WITNESS: March 1994.  
4 BY MR. BEN-VENISTE:  
5 Q So roughly contemporaneous with copying  
6 them you sent them to your attorney?  
7 A To the best of my recollection, yes, sir.  
8 Q Was there any issue in your mind about  
9 whether there were confidential materials in there  
10 that should not be seen by someone other than RTC  
11 employees?  
12 A Yes.  
13 Q And what was the question?  
14 A I viewed them as confidential documents  
15 that shouldn't be shared for public consumption.  
16 Q But would it be okay in your mind for your  
17 attorney to see it?  
18 A When I asked him to retain me and given the  
19 reasons I made the request yes, it was okay in my  
20 mind for him to see them.  
21 Q Did you seek any counsel from within your  
22 agency about whether that would be appropriate?

1 A No, I did not.

2 Q So again this would be an instance where  
3 the dissemination, this time of a great quantity of  
4 confidential information to a third party would be  
5 okay under the circumstances?

6 A I don't think that's very fairly  
7 characterized.

8 Q What's unfair about it?

9 A The fact that I was giving them to my  
10 counsel on the basis of a client-attorney privilege  
11 in the assumption that none of that information would  
12 go out of his office.

13 Q You made that assumption?

14 A I made that judgment, yes, sir.

15 Q Now, when did you first have a conversation  
16 with anyone other than your husband about making this  
17 tape recording with Ms. Breslaw?

18 A I believe the next conversation I had about  
19 that was with the independent counsel's office -- oh,  
20 I'm sorry. No, strike that.

21 It was with Mr. Leach on February 18th.

22 Q You told Mr. Leach that you had made a

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1 copy, you had made a recording of your conversation?

2 A Yes, sir.

3 Q And did you play it for him?

4 A Yes, I did.

5 Q And did you provide him with documents?

6 A Yes, I did.

7 Q And again that was on your own judgment  
8 that it would be appropriate to disseminate RTC  
9 confidential documents in this manner?

10 A I determined it was appropriate to turn  
11 them over to the House Banking Committee as an  
12 oversight authority for the RTC.

13 Q And did anyone encourage you to do that?

14 A No, sir.

15 Q And did you provide Representative Leach or  
16 anyone else in Washington with a copy of this  
17 cassette?

18 A No, sir.

19 Q What were the regulations, if any, about  
20 the use of a tape recorder to record conversations  
21 where the other party was not aware that the  
22 recording was being made?

1 MR. FORSHEY: Whose regulations?

2 MR. BEN-VENISTE: RTC regulations.

3 THE WITNESS: I wasn't aware of any.

4 BY MR. BEN-VENISTE:

5 Q So as far as you knew there was no  
6 inhibitions about tape recording co-workers,  
7 witnesses, lawyers, anyone you might have dealings  
8 with?

9 A No, sir, I had never seen a policy  
10 statement to that effect.

11 Q No one had ever given you any instruction  
12 about that?

13 A No, sir.

14 Q And insofar as you know there is no such  
15 regulation?

16 A Not that I have seen.

17 Q Has anyone told you about any such  
18 regulation?

19 A No, sir.

20 Q Has anyone ever told you about whether it  
21 is appropriate to tape record a colleague without  
22 that colleague's knowledge?

1 A There have been comments made to that  
2 effect since that time, yes.

3 Q And who has told you that?

4 A No one has directly stated that to me, but  
5 I have heard comments made to that effect.

6 Q And I'm sorry I don't understand how you  
7 would learn that without somebody telling you.

8 A I reference comments made during the August  
9 hearings in which Mr. Leach characterized it as an  
10 inappropriately taped conversation.

11 Q And Representative Leach is the only person  
12 that you know that's made a comment about whether  
13 it's appropriate within your agency for one colleague  
14 to tape record another one secretly?

15 A No, sir. Some of my co-workers commented  
16 as well.

17 Q But no one in a supervisory capacity?

18 A No, sir.

19 Q And there wasn't any reason given as to why  
20 you were placed on temporary leave or whatever the  
21 designation was for the time that you were in limbo?

22 A Mr. Ben-Veniste, nobody ever gave me any

1 reason for putting me on administrative leave.

2 Q Okay. Now, did you provide a copy to  
3 Representative Leach or anyone on his staff here in  
4 Washington?

5 A A copy of the cassette tape?

6 Q Yes.

7 A No, sir.

8 Q Okay. You played it for him and then took  
9 it back?

10 A That's correct.

11 Q And that was the original or the copy that  
12 you played?

13 A The original.

14 Q And did Representative Leach ask you about  
15 the circumstances under which you made the recording?

16 A To the best of my recollection, yes, we  
17 discussed it.

18 Q Who else was present?

19 A No one.

20 Q And who was the next person to whom you  
21 revealed that you had this tape recording?

22 A Mr. Ausen and Mr. Iorio concurrently.

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1 Q When was that?

2 A After -- sometime after March 24th, 1994.

3 Q Did you tell anyone in your agency that you  
4 were coming to see Mr. Leach?

5 A No, sir.

6 Q And again was there some reason why you  
7 didn't tell Mr. Iorio, your supervisor?

8 A Yes, sir.

9 Q What was that?

10 A I did not wish to put Mr. Ausen or  
11 Mr. Iorio in the position of having knowledge that it  
12 was my intention to meet with Mr. Leach.

13 Q And what was the reason for that?

14 A It was my decision based upon what I viewed  
15 as extensive evidence of roadblocks that were  
16 cropping up around the investigation.

17 Q At that point did you trust Mr. Iorio's  
18 judgment?

19 A Yes.

20 Q Did you trust Mr. Ausen's judgment?

21 A Yes.

22 Q And did you feel that if you had told them



1 that you were going to give RTC documents to some  
2 third party that they would have concurred?

3 A No, sir.

4 Q Did you tell anyone that you had asked an  
5 RTC employee to copy confidential documents for the  
6 purpose of transmitting them to a third party; that  
7 is your attorney and his law firm?

8 A Not that I recall.

9 Q And for the same reasons?

10 A I don't know that I even thought of a  
11 reason on that.

12 Q So it didn't even occur to you that you  
13 might ask your supervisor whether this was an  
14 appropriate thing to do?

15 A No, sir.

16 Q Now, when did you turn over a copy or an  
17 original of this cassette to the independent counsel?

18 A It went out with a letter of transmittal on  
19 March 31st, 1994.

20 Q And when was the first time you were asked  
21 to provide it?

22 A Sometime between March 14th when I

1 initially met with them and when I actually sent it  
2 on March 31st.

3 Q And what do you recall about the request?

4 A Just that they asked me to go ahead and  
5 send them the original tape.

6 Q And what did you say?

7 A Certainly.

8 Q And at that time you had the tape with you,  
9 didn't you?

10 A With me as in on my person or --

11 Q Yes, in your possession?

12 A Yes, I did.

13 Q At the time you had the conversation, is  
14 that correct?

15 A Yes, sir, it was a telephone conversation.

16 Q And before the telephone conversation, was  
17 there a face-to-face meeting in which you had a copy  
18 of the cassette with you but did not turn it over?

19 A No, sir.

20 Q Or the original of the cassette?

21 A No, sir.

22 Q There was not?

1 A There was a face-to-face meeting, but I did  
2 not have the cassette with me at that time.

3 Q You did not have it in your briefcase?

4 A I don't remember. I don't think I did, but  
5 I don't remember.

6 Q You recall being asked to provide the  
7 cassette and you don't remember having it in your  
8 briefcase at the time?

9 A I recall the phone conversation in which I  
10 told him I would send it to him and the request had  
11 been made.

12 Q Now I'm talking about the face-to-face. Is  
13 it your testimony here that you don't recall having  
14 that cassette on your person in your possession at  
15 the time the request was made to provide it?

16 A No, I believe I did have it in my  
17 briefcase.

18 Q And the reason why you didn't provide it  
19 was?

20 A I don't recall why I didn't provide it to  
21 them at that time.

22 Q Did you ever explain why you didn't provide

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1 it?

2 A I had a later conversation with an FBI  
3 agent in which we discussed at length over the phone  
4 the circumstances surrounding the tape.

5 Q Did you ever explain why you didn't provide  
6 it when you were asked for it in your face-to-face  
7 meeting and you had it in your possession?

8 A I don't think we talked about the fact that  
9 the conversation was taped during my initial meeting  
10 with the independent counsel.

11 Q So you are changing back again that you  
12 hadn't been requested to provide it?

13 MR. GIUFFRA: I think that's a little bit  
14 unfair.

15 THE WITNESS: I'm sorry. I'm trying to  
16 refresh my recollection of this as I go. My initial  
17 meeting with the independent counsel we discussed  
18 many, many things, but I do not believe that taping  
19 was among them.

20 BY MR. BEN-VENISTE:

21 Q You are saying that you had no  
22 recollection --

1 MR. GIUFFRA: Let her finish. I think  
2 she's trying to answer the question.

3 THE WITNESS: I am. I made contemporaneous  
4 notes from the tape and those notes were part of the  
5 records that I believe I turned over to the  
6 independent counsel, but I don't believe we discussed  
7 the fact that there was a recording until a later  
8 date when I spoke with an FBI agent explained the  
9 circumstances to her and it was at that point that  
10 they asked for and I agreed to send the original  
11 which was transmitted on March 31st.

12 BY MR. BEN-VENISTE:

13 Q So in your first meeting you went into the  
14 fact that you had a conversation with Ms. Breslaw,  
15 but you did not reveal that you had tape recorded  
16 Ms. Breslaw?

17 A That's correct.

18 Q And you only had one face-to-face meeting  
19 with any attorney for the independent counsel or FBI  
20 agent working for the independent counsel prior to  
21 the time of the telephone call in which you said you  
22 would send a -- the cassette?

1 A It was one three-day meeting, yes, sir.

2 Q So over the three-day period you did not  
3 reveal that you had made the tape-recording?

4 A No, I did not.

5 Q But you discussed the conversation at some  
6 length?

7 A Correct.

8 Q And what was the reason why you did not  
9 reveal you had the tape recording, having already  
10 played it for Congressman Leach and having made a  
11 copy for the purpose of providing it to law  
12 enforcement?

13 A I did not know anything about Mr. Fiske,  
14 and I was nervous about the situation and the way  
15 that the taping had occurred.

16 Q And did you feel that it was likely that  
17 trained investigators might not believe the way that  
18 you say the tape recorded conversation occurred?

19 A No, sir.

20 Q And what was there about Mr. Fiske that  
21 made you think that you could not provide to the FBI  
22 agents or attorneys working with independent counsel

1 information relating to the fact that you had made a  
2 tape recording?

3 MR. GIUFFRA: Could you raise your voice  
4 actually. Acoustics really are terrible in this  
5 room.

6 MR. BEN-VENISTE: See what I mean.

7 MR. GIUFFRA: I agree with you.

8 THE WITNESS: Would you restate your  
9 question, please, sir.

10 MR. BEN-VENISTE: Read it back.

11 (The reporter read the record as requested.)

12 THE WITNESS: My own cautious nature and  
13 the fact that I was seeking a comfort level with the  
14 staff in the independent counsel's office.

15 BY MR. BEN-VENISTE:

16 Q So by the end of the three days of meeting  
17 with them that you hadn't reached that comfort level  
18 yet?

19 A I was getting there.

20 Q And after that where did the three-day  
21 meeting occur?

22 A In Little Rock.

1 Q And how much time went by before you  
2 advised them that you had tape recorded this meeting?

3 A As I recall it was a very brief period of  
4 time after the conclusion of that meeting.

5 Q A matter of days or weeks?

6 A A matter of days.

7 Q And did you provide the original at their  
8 request?

9 A Yes, sir.

10 Q And by this time you say you had thrown  
11 away the tape recorder itself?

12 A That's correct.

13 Q Did you tell them that?

14 A I don't remember.

15 Q Did anyone ask you to provide the original  
16 tape recorder?

17 A No, sir.

18 Q Did anyone ask you to provide any  
19 microcassettes that you had used in connection with  
20 that tape recorder other than the one relating to  
21 your conversation with Ms. Breslaw?

22 A No, sir.



1 Q Now, who made the transcript that you have  
2 provided to us of that conversation?

3 (Witness conferred with counsel.)

4 THE WITNESS: I did.

5 BY MR. BEN-VENISTE:

6 Q And how many times have you listened to  
7 that tape now?

8 A While making the transcript, several. I  
9 can't count them.

10 Q And so let me ask you whether in making the  
11 duplicate your husband simply recorded from the  
12 beginning of the original tape everything that was on  
13 there to the end?

14 A I believe he recorded an opening comment  
15 that I made leading into the conversation and then to  
16 the end of that conversation with Ms. Breslaw and  
17 that was the extent of what he recorded.

18 Q And so he did that without listening to the  
19 tape you say?

20 A Yes, sir.

21 Q And how was he able to do that, to hit it  
22 just right on the tape?

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1 A He was working on another project in his  
2 newsroom with his headphones on editing another tape  
3 as this was being duplicated and copied on another  
4 machine.

5 Q I mean you've indicated that your comments  
6 "come in, come in" don't occur right at the  
7 beginning of the spool of tape; correct?

8 A Correct.

9 Q So how would he know just to pick up the  
10 duplicate copy at that point if that's what you've  
11 just indicated?

12 A Allow me to clarify, please. I do recall  
13 there was space at the beginning of that tape and  
14 over that space I recorded a very brief explanation  
15 of the conversation that was to follow. And then I  
16 rewound it and gave it to him and asked him, here,  
17 start here and just record it for me.

18 Q Oh. So you went to the original of the  
19 tape after the conversation had been made and you  
20 added some sort of a prologue?

21 A Yes, I did.

22 Q And was that at the very beginning of the

1 spool of tape that you gave this prologue?

2 A I don't recall that it was at the very  
3 beginning but it preceded the conversation.

4 Q I don't see that there's any prologue  
5 reflected on the transcript that we have. Our  
6 transcript begins with you saying "come in, come  
7 in."

8 A If I may. This line up here is effectively  
9 what the prologue was, but I did not include that as  
10 denoting that that was my voice at the very beginning  
11 of the tape.

12 Q What you've referred me to is the words  
13 "this is a transcript of a conversation between RTC  
14 senior criminal investigator L. Jean Lewis and senior  
15 RTC/PLS attorney April Breslaw on 2/2/94"?

16 A Yes, I believe what I said was the  
17 following conversation is. That's the best  
18 recollection I have.

19 Q So you're paraphrasing something at the  
20 beginning of this tape; correct?

21 A At the beginning of the transcript, yes,  
22 sir.

1 Q And then the tape begins?

2 A Yes, sir, then the --

3 Q Or was there some more time?

4 A No, sir, then the actual conversation  
5 began.

6 Q So you went back to the original, you  
7 listened to it, you said well, I'll have enough room  
8 on the tape so I don't record over the conversation  
9 between me and Ms. Breslaw, and I can add this little  
10 preface?

11 A That's correct.

12 Q And you're sure that you went back and did  
13 this; you didn't do this in the first instance?

14 A No, sir, I'm quite certain I went back and  
15 did it the night I asked my husband to make a  
16 recording.

17 Q And you did that on the original as well as  
18 on the copy, which would have been carried over to  
19 the copy; is that what you're saying?

20 A I did it on the original before the copy  
21 was made, yes, sir.

22 Q So how much time was there on the original

1 of uninteresting conversation or noise before the  
 2 "come in, come in" part began on the original. Just  
 3 enough time to give this introductory information?

4 A To the best of my recollection there was a  
 5 little more time than that, so there was adequate  
 6 time for me to put that preface on there and make  
 7 sure that the beginning of the conversation was  
 8 accurately captured.

9 Q So about how much time elapses between the  
 10 end of your preface and the words "come in, come in,"  
 11 by you to Ms. Breslaw?

12 A Not a lot. I don't know exactly.

13 Q A couple of minutes or less than a minute?

14 A I really don't know.

15 Q Did you erase over everything that happened  
 16 before the words "come in, come in" are reflected?

17 A From what I remember there was pretty much  
 18 just white noise, files being moved around on my  
 19 desk, me typing on the computer keyboard. I don't  
 20 recall any conversation at the beginning of that at  
 21 all.

22 Q Did you record over the beginning of it

1 until the words come in, come in?

2 A I don't believe so. I think there is a  
 3 little space between the end of my comment and the  
 4 first comment, come in, come in.

5 Q And that's from the original sounds that  
 6 were on the original microcassette?

7 A Yes, sir.

8 Q And you think that's how much in length, a  
 9 minute or so?

10 A I'm not following your question,  
 11 Mr. Ben-Veniste.

12 Q How long is the noise, white noise as you  
 13 put it, from the original cassette until the words  
 14 "come in, come in"?

15 A Prior to my insertion of this comment?

16 Q Well, after you finished your comment?

17 A I don't know.

18 Q I'm asking whether it's a matter of seconds  
 19 or minutes or you've listened to this many, many  
 20 times?

21 MR. FORSHEY: Mr. Ben-Veniste, she's  
 22 answered your question I think three or four times

1 now. She doesn't know.

2 BY MR. BEN-VENISTE:

3 Q Well, let me try again. Are you saying  
4 that it could be as much as five minutes?

5 A There is a lapse of time there, but I don't  
6 know how much.

7 Q But you're certain that you did not record  
8 over that period prior to the time that the words  
9 "come in, come in" are heard other than to insert  
10 this preface?

11 A That is correct, and there was no other  
12 conversation prior to "come in, come in."

13 Q So under your explanation of how this tape  
14 recorder started recording, it would have been just  
15 fortuitous that it happened to go on by itself just a  
16 matter of moments before Ms. Breslaw entered your  
17 office?

18 MR. FORSHEY: I'll object. I don't think  
19 that accurately reflects her testimony.

20 BY MR. BEN-VENISTE:

21 Q You may answer.

22 MR. GIUFFRA: Why don't you read the

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1 question back.

2 (The reporter read the record as requested.)

3 THE WITNESS: It was on when Ms. Breslaw  
4 came into my office.

5 BY MR. BEN-VENISTE:

6 Q So your answer is that just happened  
7 fortuitously that it went on just when she came in?

8 A That is your choice of words.

9 Q Well, you didn't design it to come on  
10 purposely?

11 A No, sir, I did not.

12 Q Now, after you had changed the side of the  
13 tape because you realized you had recorded Mr. Iorio  
14 and others earlier that afternoon and you  
15 fast-forwarded it so that you would be at the  
16 beginning of the other side of the tape, would that  
17 be side B now that we're talking about?

18 A Ms. Breslaw's conversation with me was on  
19 side B of the tape.

20 Q Okay. So you testified previously that you  
21 fast forwarded to the end of side A, flipped the  
22 cassette over and reinserted it into the recorder;



1 correct?

2 A Correct.

3 Q And then you left it on your desk?

4 A Correct.

5 Q Did you have anything further to do with  
6 it?

7 A No, sir, not until I realized that it was  
8 actually recording when Ms. Breslaw was in my office.

9 Q Now, according to the way that particular  
10 tape recorder records, since you have another one of  
11 a similar design, do you know whether the record key  
12 is generally required to be depressed in order to  
13 make a recording?

14 A There are significant differences in the  
15 models.

16 Q Well, let's go on and not confuse the  
17 matter by comparing the new and improved recorder to  
18 the old and dilapidated eight-year old model and  
19 stick with your experience over those eight years in  
20 using that recorder.

21 Did you have to depress the record button  
22 in order to make a recording, generally speaking when

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1 the machine was functioning properly?

2 A When it was functioning properly, yes.

3 Q And was that simply one key that had to be  
4 depressed or was it required that you press record in  
5 conjunction with something else in order to make a  
6 recording?

7 A It was one record button, and it was on top  
8 of the tape recorder.

9 Q And when the machine was functioning  
10 properly, you would have to press that one record  
11 button in order to make a recording?

12 A That's correct.

13 Q And when you noticed that the machine had  
14 recorded Mr. Iorio, was that button depressed?

15 A You've made several references to my  
16 recording Mr. Iorio, I don't recall testifying that I  
17 recorded specifically Mr. Iorio.

18 Q Excuse me. When your tape recorder  
19 recorded Mr. Iorio earlier that day, do you recall  
20 whether the record button was depressed?

21 A No, I don't.

22 Q Do you recall whether, on prior occasions

1 when the machine had recorded on its own volition,  
2 whether the record button had been depressed?

3 A I recall one instance in which there was a  
4 recording, and it was recording, the light was red  
5 and the record button was not depressed.

6 Q But you don't know if that instance was the  
7 one which captured Mr. Iorio's voice on the 2nd of  
8 February?

9 A No, sir, that had -- that occurred quite  
10 some time prior to that and I noticed it while I was  
11 having a phone conversation one day and I reached  
12 down and picked it up and looked down at it and saw  
13 the record button was not depressed but that the  
14 light was on.

15 Q And so you don't feel that you might have  
16 inadvertently pressed the record button February the  
17 2nd in order to catch Mr. Iorio's voice?

18 A No, sir.

19 Q And when you noticed that Ms. Breslaw's  
20 voice was captured on the recording, were you able to  
21 tell if the record button was depressed or not?

22 A It was lying flat on my desk, and the

1 record button was up at the top on the left and from  
2 where I was sitting and where it was lying next to my  
3 calculator, I would not have been able to see if it  
4 was depressed or not.

5 Q Well, when Ms. Breslaw left the meeting,  
6 did you attend to the tape recorder?

7 A Yes.

8 Q Did you notice whether the record button  
9 was depressed?

10 A No.

11 Q But you knew you had made a recording or  
12 the recorder had made a recording of this  
13 conversation?

14 A Yes, sir.

15 Q And you knew there was a cassette in there  
16 it hadn't just, the red light hadn't come on with  
17 blank bullets so to speak, there was an actual  
18 cassette in there; right, you knew that?

19 A I knew there was a cassette in there, yes.

20 Q Of course you just flipped it over and  
21 changed it earlier that afternoon?

22 A Correct.

1 Q So did you remember turning the tape  
2 recorder off or did it just continue to run along on  
3 its own after Ms. Breslaw left?

4 A After she left I remember picking it up and  
5 shaking it and hitting a stop button on the side.

6 Q You hit the stop button?

7 A I depressed a stop button on the side,  
8 again.

9 Q And when you say again, what do you refer  
10 to?

11 A It was another part of the hiccups.  
12 Sometimes it would stop and sometimes it wouldn't.  
13 So I would have to make an effort to depress the stop  
14 button.

15 Q And did the tape recorder give up and stop  
16 at that point?

17 A Yes.

18 Q And how much tape was left on the  
19 microcassette, do you know?

20 A I'm sorry, I don't recall.

21 Q And during all these times where you have  
22 listened to the recording, have you ever noticed how

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1 long this recording is of your conversation?

2 A I recall timing it. The first time I  
3 actually listened to it and I knew what time  
4 Ms. Breslaw had come into my office so I believed  
5 that that was a 40-minute conversation.

6 Q So there would have been roughly 20 minutes  
7 left of unrecorded space on the cassette, minus the  
8 period for your preface?

9 A Roughly, yes, sir.

10 Q And your preface would have to be less than  
11 a minute, wouldn't you say?

12 A Yes, sir.

13 MR. FORSHEY: Counsel, just give us a  
14 second.

15 (Witness conferred with counsel.)

16 MR. GIUFFRA: Mr. Ben-Veniste, it's now  
17 five minutes to five, just roughly how much longer do  
18 you think your examination will take?

19 MR. BEN-VENISTE: Quite a bit more.

20 MR. LEVIN: More than 50 percent more?

21 MR. GIUFFRA: Are we talking two hours,  
22 three hours, four hours, five hours?

1 MR. LEVIN: In other words, until midnight,  
2 until 7:00?

3 MR. BEN-VENISTE: If you have a need to  
4 take a break, Counsel.

5 MR. GIUFFRA: I think the point is if it's  
6 going to be beyond two hours I think we probably may  
7 want to do this again tomorrow.

8 MR. BEN-VENISTE: Well, we may want to  
9 finish tonight if the witness would like to.

10 MR. FORSHEY: That's why I was inquiring as  
11 to whether the witness is too tired to continue. I  
12 certainly don't want her to labor under that.

13 THE WITNESS: The witness is still trying  
14 to recuperate.

15 MR. BEN-VENISTE: Well --

16 MR. FORSHEY: Let's go off the record a  
17 minute.

18 MR. BEN-VENISTE: Sure.

19 (Discussion off the record.)

20 MR. BEN-VENISTE: Ms. Lewis, you've  
21 indicated through counsel that you are somewhat  
22 fatigued. We recognize that you are at the tail end

1 of the flu and that that's a debilitating infection  
2 to have in and of itself without having to worry  
3 about testifying. And we do want your best  
4 recollection. We do not want to put you through some  
5 marathon while you're not feeling well.

6 We have discussed being able to accommodate  
7 you to our best ability. We had planned to finish  
8 this evening, if possible. Since that does not  
9 appear to be possible under the circumstances we  
10 would like to resume at the next available  
11 opportunity, and right now I have a deposition that  
12 I've got to take tomorrow at 9:30. There are two  
13 possibilities. That deposition could be postponed  
14 until a later time, or we could take up the  
15 resumption of your deposition at the conclusion of  
16 tomorrow's deposition.

17 As far as I'm concerned, I'm prepared to do  
18 it either way and perhaps doing it the latter way  
19 would give you more time to rest up. But Mr. Giuffra  
20 and I will confer about how that will occur.

21 MR. FORSHEY: Mr. Ben-Veniste --

22 MR. BEN-VENISTE: Tomorrow's deposition has



1 been prepared by me, and I need to be the one to take  
2 that. That's the only stipulation.

3 MR. GIUFFRA: Just so the record is clear  
4 in my conversations with Mr. Forshey, I think in  
5 consultation with the Minority we indicated --

6 MR. BEN-VENISTE: With whom?

7 MR. GIUFFRA: With the Minority.

8 MR. BEN-VENISTE: With whom?

9 MR. GIUFFRA: I believe with Mr. Lance Cole  
10 who is the deputy special counsel.

11 MR. BEN-VENISTE: I know who Lance Cole is  
12 I just wondered who it was.

13 MR. GIUFFRA: If you would allow me to at  
14 least make a few points. We had indicated that this  
15 deposition might take two days and that we would  
16 schedule it for two days, and I communicated to  
17 Mr. Forshey that the deposition might take two days,  
18 and I think, speaking for the majority, that we have  
19 an obligation to do whatever possible to try to  
20 conclude Ms. Lewis's deposition tomorrow during the  
21 business hours which is when we told her.

22 MR. BEN-VENISTE: I don't know about the

1 business hours.

2 MR. GIUFFRA: Can I finish before you  
3 object.

4 MR. BEN-VENISTE: If the purpose of this is  
5 to suggest that it will go on while tomorrow's  
6 deposition will also go on, then I can tell you that  
7 the answer to that is no. Ms. Breslaw's deposition  
8 was originally scheduled for the 24th as I recall.  
9 Her schedule and counsel's schedule was accommodated.

10 MR. GIUFFRA: Ms. Breslaw, I didn't know  
11 Ms. Breslaw was here.

12 MR. BEN-VENISTE: Ms. Lewis, I'm sorry.  
13 That we have attempted to accommodate counsel's  
14 schedule and Ms. Lewis's schedule. We are now  
15 accommodating other things. But what I will not  
16 accommodate, Mr. Giuffra, is either truncating the  
17 deposition or moving somebody into taking the  
18 deposition that's scheduled for tomorrow again at  
19 your request that I will be taking. So --

20 MR. FORSHEY: Well --

21 MR. BEN-VENISTE: My suggestion is that if  
22 you provide us with a, you know, you are just

1 cluttering up the record.

2 MR. LEVIN: He is following his procedure  
3 of the deposition.

4 MR. GIUFFRA: Can I have the courtesy of --  
5 just two minutes?

6 MR. BEN-VENISTE: I am prepared to go on.  
7 Why don't we just go on?

8 MR. FORSHEY: I don't have any intent of  
9 adjourning this deposition until you can find out if  
10 you can move that deposition in the morning. Let's  
11 find out now it's only 5:00. Let's find that out now  
12 before we do anything more.

13 MR. BEN-VENISTE: Do you want to go  
14 forward?

15 MR. FORSHEY: I want to find out whether or  
16 not that deposition can be moved.

17 MR. GIUFFRA: Plus I think we have to try  
18 to get a handle on how much longer this deposition is  
19 going to be going.

20 MR. BEN-VENISTE: I've indicated that it's  
21 several hours.

22 MR. GIUFFRA: Do you think if it's two

1 hours, then I think we can easily do it between 2:00  
2 and 4:00 tomorrow. If it's five hours then I think  
3 we have a different situation on our hands.

4 MR. FORSHEY: Is your several hours two  
5 hours or five hours?

6 MR. BEN-VENISTE: I don't think I'm going  
7 to be cross-examined by you, counsel.

8 MR. FORSHEY: I'm just asking. You are  
9 trying to set up a deposition schedule. We were told  
10 we were going to be here for two days. I assumed  
11 that if we did not finish today we would start  
12 tomorrow. Doesn't look like we'll be able to finish  
13 today and I'm hoping to go forward.

14 MR. BEN-VENISTE: My conversation with  
15 Mr. Giuffra's colleague about this subject matter,  
16 Mr. Chertoff, was that we would try to finish  
17 Ms. Lewis's deposition if we had to work late in the  
18 evening which we've done before. Ms. Lewis does not  
19 feel well. So we will depart from that and try to  
20 accommodate that.

21 I'm sorry, but there are limits to the way  
22 that we can accommodate it. I'm prepared to resume

1 in the morning if we can move the other deposition.  
2 I've indicated that to you.

3 MR. FORSHEY: Counsel, I'm not looking for  
4 an accommodation. I was told that the deposition  
5 would go for two days. All I'm asking at this point  
6 is that you try to find out now before the hour gets  
7 any later whether or not that deposition can be  
8 removed in the morning we can resume at 9:30. It  
9 seems to be a relatively simple question.

10 MR. BEN-VENISTE: If we can't move it,  
11 which will require some calling around, then my  
12 suggestion is that we try to resume at 5:00.

13 MR. FORSHEY: Well, rather than at this  
14 point trying to guess whether or not we can or can't,  
15 let's find out.

16 MR. BEN-VENISTE: We can get back to you;  
17 if you provide us with a number, we'll contact you.

18 MR. FORSHEY: I would like to stay right  
19 here. We ought to be able to figure that out.

20 MR. GIUFFRA: Is there correspondence with  
21 the Committee indicating that -- confirming that the  
22 deposition will take two days; that would be Monday

1 and Tuesday.

2 MR. FORSHEY: Probably so. I don't think I  
3 have it here.

4 MR. BEN-VENISTE: Well, let's see it.  
5 Let's see it if there is such correspondence.

6 MR. FORSHEY: As I say, I don't know that I  
7 have any correspondence here at this point.

8 MR. BEN-VENISTE: Look, Mr. Giuffra, I  
9 wouldn't suspect that you are trying to get me out of  
10 the deposition tomorrow, but if you are, it's not  
11 going to be successful. Unfortunately, we've got to  
12 do things the way we've got to do them, just like you  
13 do on your side. I'm trying to be as accommodating  
14 as possible, and it involved working late this  
15 evening, but what we will not do is to truncate the  
16 deposition.

17 MR. FORSHEY: All we're asking at this  
18 point is that you go and ask, please, whether or not  
19 it can be --

20 MR. BEN-VENISTE: There isn't anybody to go  
21 and ask. There isn't any way because Ms. Lewis  
22 doesn't was to testify any more today. Mr. Giuffra,



1 do you understand that?

2 MR. GIUFFRA: Mr. Ben-Veniste, if you would  
3 please stop the rude comments. Why don't you go and  
4 try to find out if your deposition tomorrow can  
5 either be moved or perhaps --

6 MR. BEN-VENISTE: If you get Mr. Chertoff  
7 here, we can find that out. Why don't you call  
8 Mr. Chertoff and ask him to come here?

9 MR. GIUFFRA: Would you just let me get a  
10 word in edgewise.

11 MR. BEN-VENISTE: I think you have.

12 MR. GIUFFRA: The rudeness today is --

13 MR. BEN-VENISTE: Look.

14 MR. GIUFFRA: Now that we're on the record,  
15 we can either have Ms. Lewis's deposition commence  
16 tomorrow afternoon at a civilized time or in the  
17 morning.

18 MR. BEN-VENISTE: Right.

19 MR. GIUFFRA: I think it's quite clear that  
20 we advise Ms. Lewis, if you check with Mr. Cole, your  
21 colleague, he'll know that we told them to have the  
22 deposition Monday and Tuesday.

1 MR. BEN-VENISTE: Okay.

2 MR. GIUFFRA: And there are plenty of  
3 lawyers on both sides who can handle this.

4 MR. BEN-VENISTE: Look, Ms. Lewis doesn't  
5 feel well, she wants to take a break and resume later  
6 this evening. We can do that. But what we can't do  
7 is what you want to do, Mr. Giuffra, which is to  
8 bounce me out of tomorrow's deposition.

9 MR. LEVIN: I didn't hear Mr. Giuffra say  
10 that.

11 MR. BEN-VENISTE: I don't care what you  
12 heard.

13 MR. LEVIN: You are creating a phony  
14 record, sir.

15 MR. BEN-VENISTE: A phony record.

16 MR. LEVIN: Yes, you are. Nobody has tried  
17 to bounced you out. We look forward to seeing you  
18 tomorrow.

19 MR. BEN-VENISTE: Thank you very much. I  
20 was talking about the other depo, so this is still  
21 another case of you getting it wrong, Mr. Levin.

22 MR. GIUFFRA: Why don't we find out. Can



1 we, please? We have wasted 10 minutes. Can you  
2 please find out if we can make the depo --

3 MR. BEN-VENISTE: Get Mr. Chertoff here and  
4 we can talk about it.

5 MR. GIUFFRA: Pick up the telephone or have  
6 someone -- I don't know who the witness to the  
7 deposition is tomorrow. I have a feeling I think I  
8 know whose deposition it was.

9 MR. BEN-VENISTE: I'm not going to play  
10 these games with you, Mr. Giuffra.

11 MR. GIUFFRA: Let's go off the record so we  
12 can stop the games.

13 MR. BEN-VENISTE: Okay.  
14 (Discussion off the record.)

15 MR. FORSHEY: I just happen to have, as I  
16 thought about it further, an October 17th, 1995  
17 letter from Mr. Giuffra with a copy to Mr. Lance  
18 Cole, Democrat deputy special counsel. This letter  
19 is written to confirm that we have scheduled  
20 Ms. Lewis's deposition for 9:00 a.m. on Monday,  
21 October 30th, 1995, and if necessary, for 9:30 a.m.  
22 on October 31, 1995. It's my understanding that we

---

1 were going to continue on to the next day.

2 MR. BEN-VENISTE: Okay. I'd like to go  
3 ahead and include into the record a copy of this  
4 letter.

5 MR. BEN-VENISTE: Here. Mark it.

6 MR. FORSHEY: Counsel, a copy of the  
7 letter.

8 MR. BEN-VENISTE: I'll provide a copy and  
9 then we'll mark it.

10 MR. FORSHEY: We're going to do it.  
11 (Discussion off the record.)

12 MR. FORSHEY: I'm going to ask that the  
13 letter of October 17th, 1995 be marked and placed  
14 into the record and we intend to be back at 9:30 in  
15 the morning pursuant to the record.

16 MR. BEN-VENISTE: We'll take your request  
17 under advisement when counsel for the majority shows  
18 up.

19 MR. FORSHEY: I'm sorry. You were talking  
20 into the table. I didn't hear you.

21 MR. BEN-VENISTE: I said we would take your  
22 request under advisement when counsel for the

1 majority shows up.

2 MR. FORSHEY: It was not a request.

3 (Discussion off the record.)

4 (Lewis Exhibit 1 identified.)

5 (Whereupon, at 5:08 p.m., the deposition

6 was adjourned, to reconvene at 9:30 a.m., on Tuesday,

7 October 31, 1995.)

8

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10 L. JEAN LEWIS

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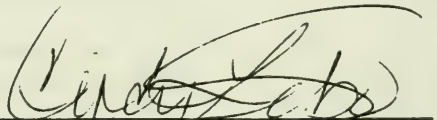
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT JEAN LEWIS

## ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
19	6	"INCARCERATIONS"	"INFORMATION"	STENO OR TRANSCRIP ERROR
19	9	"LOS COLENIS"	"LAC COLINAS"	SPELLING ERROR
24	5	"MINUTES"	"MEETINGS"	STENO OR TRANSCRIP ERROR
24	13	"HUGGINS WORK"	"HUGGINS REPORT WAS"	" " "
30	2	"CRIMINAL INVESTIGATIVE HEAR"	"INVESTIGATIVE SECTION"	
30	11	"CORRECTIVE"	"CORRECT"	STENO OR TRANSCRIP. ERROR
32	21	"DEMAND TO"	"DEMAND"	
71	8	"BEON"	"BYONNE"	
73	11	"CONFLICTED"	"CONFLICTING"	
87	19	"KAREN"	"CARON"	
104	7	"INVESTED"	"UESTED"	
113	20	"DELEANOR"	"DELANO"	
115	8	"LOREN"	"LORENE"	
115	12	"ATTEMPTS ITSELF"	"ATTEMPTS AT SELF"	
121	17	"DID"	"DIDN'T"	
124	18	"ROLEY"	"CORLELL"	
131	8	"LEON"	"CLION"	
139	9	"C"	"KC"	
140	20	"PRESENT"	"PRESIDENT"	
147	1	"PLS"	"PLS AND"	
149	4	VISIT	VISIT FROM	

(over)



<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>TO</u>
152	1	CONTACT	COMMENT
152	2	JANKOWSKY	JANKOWSKI
161	7	TRUST	JUSTICE
164	22	NOISE	NOTES
191	21	AUSSET CORBIN	ALAN CORSET
206	11	ON	OFF
408	9	SEVENTH	SOUTHERN

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 AND CHIEF COUNSEL

**United States Senate**  
 COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS  
 WASHINGTON, DC 20510-6075

October 17, 1995

By Facsimile and US Mail

Michael Forshey, Esq.  
 Butler & Binion, L.L.P.  
 1800 St. Paul Place  
 Dallas TX, 75201

Dear Mr. Forshey,

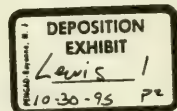
This letter is to confirm that we have rescheduled Ms. L. Jean Lewis deposition for 9:30 a.m. on Monday, October 30, 1995, and, if necessary, for 9:30 a.m. on October 31, 1995.

Please contact Alice Fisher, Associate Special Counsel, at 202-224-0400 regarding any scheduling questions.

Very truly yours,

*Robert J. Giuffra, Jr.*  
 Robert J. Giuffra, Jr.  
 Chief Counsel

cc: Lance Cole  
 Democrat Deputy Special Counsel





**DEPOSITION OF MARK K. STEPHENS  
IN RE: S. RES. 120**

---

**MONDAY, OCTOBER 30, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of MARK K. STEPHENS, called for examination pursuant to notice of deposition, at 2:10 p.m. in Room 640 of the Hart Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.  
Majority Deputy Special Counsel  
GLENN F. IVEY, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.



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## WITNESS

## EXAMINATION

## Mark K. Stephens

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## EXHIBITS

---

## Mark K. Stephens

## DEPOSITION NUMBER

## IDENTIFIED

Stephens Exhibit 1 .....	47, 5357
Stephens Exhibit 2 .....	53, 5360
Stephens Exhibit 3 .....	55, 5464
Stephens Exhibit 4 .....	68, 5465
Stephens Exhibit 4-A .....	70, 5467
Stephens Exhibit 5 .....	73, 5474
Stephens Exhibits 6 and 7 .....	86, 5478
Stephens Exhibits 8, 9, and 10 .....	91, 5480
Stephens Exhibits 11, 12, and 13 .....	100, 5484
Stephens Exhibit 14 .....	106, 5488
Stephens Exhibit 15 .....	124, 5493
Stephens Exhibit 16 .....	141, 5498
Stephens Exhibits 17 and 18 .....	157, 5499

## 1 PROCEEDINGS

2 Whereupon,

3 MARK K. STEPHENS

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. GICALE:

8 Q Could you please state your name for the  
9 record?10 A Mark, K as in Keith, Stephens,  
11 S-t-e-p-h-e-n-s.12  
13  
14  
15 Q Your present business address?16 A 409 3rd Street Southwest, Washington, D.C.  
17 20416.

18 Q Your present position?

19 A I am the associate general counsel for  
20 Small Business Investment Company litigation and  
21 field operations.

22 Q Which is a part of the Small Business

4

1 Administration; correct?

2 A Yes, I am employed by the Office of General  
3 Counsel.

4 Q For the?

5 A Small Business Administration.

6 Q Now, how long have you been employed in  
7 that capacity?

8 THE WITNESS: Can we go off the record?

9 MR. GICALE: Off the record.

10 (Discussion off the record.)

11 THE WITNESS: I have been the associate  
12 general counsel for SBIC litigation since March of  
13 1992. Within the last few months I have also taken  
14 on the additional responsibilities to head up the  
15 field operations for the entire legal staff of the  
16 country, overseeing our attorney field staff.

17 BY MR. GICALE:

18 Q Prior to March of 1992, you were --

19 A I was a special assistant to the general  
20 counsel, responsible for SBIC litigation.21 Q General counsel of the Small Business  
22 Administration?

1 A Yes, sir.

2 Q For what period of time?

3 A From approximately June of 1990 until I  
4 received my SES position in March of 1992.

5 Q Mr. Stephens, this deposition today is  
6 being conducted pursuant to Senate Resolution 120.  
7 The resolution establishes a special committee  
8 administered by the Banking Committee to conduct an  
9 investigation involving Whitewater Development  
10 Corporation, Madison Guaranty Savings & Loan  
11 Association, Capital Management Services Inc., the  
12 Arkansas Development Finance Authority, and other  
13 related matters.

14 Section 1(b)2(b) and (c), and 1(b)3(e) of  
15 Senate Resolution 120 authorize an investigation and  
16 public hearings into whether the White House has  
17 engaged in improper contacts with any other agency or  
18 department in the government with regard to  
19 confidential RTC information relating to Madison  
20 Guaranty Savings & Loan or Whitewater Development  
21 Corporation; whether the Department of Justice has  
22 improperly handled RTC criminal referrals relating to

1 Madison Guaranty Savings & Loan association or  
2 Whitewater Development Corporation; to conduct an  
3 investigation and public hearings and study of all  
4 matters that have a tendency to reveal the full facts  
5 about the source of funding and lending practices of  
6 Capital Management Services Inc. and its supervision  
7 and regulation by the Small Business Administration,  
8 including any alleged diversion of funds to  
9 Whitewater Development Corporation.

10 A Sir, before we continue, I had other  
11 positions with the Small Business Administration  
12 before that.

13 Q Okay, and I will get back to that in a  
14 moment.

15 The items that I just listed will be the  
16 focus of today's deposition. You have been requested  
17 to testify before this committee. Your deposition is  
18 in advance of a public hearing that will be held in  
19 November. It is possible that you may testify at  
20 that hearing.

21 We will be asking you a series of  
22 questions. You're testifying under oath. If you do

1 not understand a question, let us know and we will  
2 rephrase it. The stenographer will prepare a record  
3 of questions and answers the deposition will be  
4 treated as committee confidential until the  
5 commencement of the hearings.

6 Prior to the hearings you will receive a  
7 letter from the committee telling you that you may  
8 come to the Senate to review the transcript of your  
9 deposition, and make note of any corrections for  
10 transcription on an errata sheet. If you are called  
11 to testify at the public hearings, you will be  
12 permitted to have a copy of your deposition  
13 transcript four days in advance of your testimony.

14 You may be represented by counsel. I note  
15 that you are here alone today. Objections to the  
16 form of questions will be noted for the record.  
17 Counsel may object on the grounds of privilege or  
18 relevance. The committee chairman may rule on  
19 objections where the witness refuses to answer a  
20 question.

21 Now, going back to your work history, prior  
22 to June of 1990, where were you employed?

---

1 A I was still with the Small Business  
2 Administration. I was chief counsel for procurement  
3 law. And prior to that I was a trial attorney.

4 Q How long were you in the procurement  
5 position?

6 A Approximately two years. I started with  
7 the Small Business Administration in December of  
8 1987.

9 Q And again going backwards, you were in the  
10 procurement position two years, and prior to that,  
11 you were in which position?

12 A Trial attorney.

13 Q And that's how you started out in December  
14 of 1987; is that correct?

15 A Yes, sir.

16 Q Now, are you aware of the committee's  
17 document request to the Small Business  
18 Administration, and did you prepare -- search your  
19 records to prepare a response and submit responsive  
20 documents, notes, reports or memoranda to the  
21 committee --

22 A Yes, sir.



1 Q -- in response to that request?

2 A Yes, sir.

3 Q Have all responsive documents been  
4 produced, that you were aware of?

5 A Yes, I believe all responsive documents  
6 have been produced, to the best of my knowledge.

7 Q Now, prior to coming in here today, we had  
8 we had an off-the-record discussion with Mr. Ivey,  
9 and you -- I believe you indicated that there were  
10 attachments to a November 15 letter of Congressman  
11 LaFalce that would -- November 15, 1993 letter to the  
12 Honorable John LaFalce, regarding Capital Management  
13 Services from Erskine Bowles, which indicated that  
14 there was attached information to that letter.

15 And you indicated that, in responding to  
16 the committee's request, while you included the  
17 letter to Congressman LaFalce, you did not include  
18 the attachments; is that correct?

19 A That is correct. I would just like to say  
20 for the record that the document request we received  
21 was extensive and I did my best efforts to try to  
22 accommodate the committee. But due to the length of

---

10

1 the request and the short availability of time, it  
2 was just an oversight on my part.

3 Q Okay, now. Would that be the only thing  
4 that is omitted in terms of responsive documents?

5 A To the best of my knowledge, I offered the  
6 committee an opportunity to come and review all of  
7 our documents and make them all available to you and  
8 Mr. Teckler. And I had some discussions with  
9 Mr. Giuffra regarding that, but Mr. Giuffra gave us  
10 parameters of documents to produce and I tried to  
11 produce all the documents that were responsive to  
12 that request. There is nothing, in short, to respond  
13 to your question, that I withheld knowingly or  
14 intentionally.

15 Q Now, with respect to the attachments to the  
16 November 15, 1993 LaFalce letter, you've indicated  
17 that, pursuant to our request, that you will, after  
18 this deposition, you will supply copies of those  
19 attachments to the committee --

20 A Yes, sir.

21 Q -- so that they could be shared with both  
22 staffs; correct?

1 A Absolutely.

2 Q Now, I've also, with respect to that  
3 request, I've -- strike that.

4 Mr. Stephens, did you speak to anyone you  
5 know who has testified before this committee or who  
6 you expect to testify before this committee, who you  
7 know expects to testify before this committee with  
8 respect to the substance of your testimony today?

9 A No, I have not.

10 MR. GICALE: Off the record for a second.

11 (Discussion off the record.)

12 MR. GICALE: Back on the record. Could you  
13 restate the question.

14 (The reporter read the record as requested.)

15 BY MR. GICALE:

16 Q In May of 1993, your agency forwarded a  
17 request for investigation with respect to Capital  
18 Management Services Inc., to Steven Marica,  
19 M-a-r-i-c-a?

20 A That's correct.

21 Q Are you aware of that request, and when --  
22 and if you are, when did you first become aware of

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1 it?

2 A I am aware of that request. I can't  
3 remember exactly when I did become aware of it. I  
4 know that there was consideration to make a referral  
5 and that a referral was indeed made.

6 Q Were you involved in the decision -- when  
7 did you first become involved in the investigation of  
8 Capital Management Services?

9 A I would say I was contacted by the program  
10 people sometime in the early spring of 1993, maybe  
11 January or February. I can't remember the specific  
12 date. I was contacted by Mr. Newell and Ms. Dawson  
13 of the program staff to ask my opinion on the  
14 transactions that had been found out in the exam  
15 report about the alleged swaps that's referred to in  
16 the exam report. And I began a series of discussions  
17 with them regarding the swaps and Capital  
18 Management.

19 Q Now, was it the swaps or the request for  
20 additional leverage based on some donated assets and  
21 the request with respect to the assets that were  
22 donated and the source of those assets?

1 A That was all intertwined. The swaps, the  
2 donated assets, that was all part of what we were  
3 looking at.

4 Q For the record, can you explain the nature,  
5 when you talk about swaps and donated property, what  
6 the request was to you to look at?

7 A There were two issues involving Capital  
8 Management Services that surfaced in early 1993. In  
9 reference to swaps, David Hale was making an  
10 allegation that he had investments on his books --

11 Q Now, for the record, who is David Hale?

12 A David Hale was the president of Capital  
13 Management. And that David Hale claimed that he had  
14 assets that he had traded or swapped to other  
15 companies, so that, for example, he had a note that  
16 was nonperforming for \$300,000, he would trade that  
17 to another company, and then book the new note on as  
18 a performing asset. That's what I referred to when I  
19 talk about swaps.

20 Q When you say, for example, in this instance  
21 specifically, what had he done, if you recall?

22 A Well, there was a whole list of swaps.

1 There were about 12 swaps. Autometrics is one,  
2 Master Marketing was one, Incredible Closeout.

3 Q Do you recall the particulars of the Master  
4 Marketing swap?

5 A Yes. In Master Marketing, there was a  
6 judgment on the books of Capital Management for  
7 \$384,000 against Susan McDougal. It was a  
8 nonperforming asset. Mr. Hale --

9 Q Now, Susan McDougal, what was her  
10 relationship to Master Market?

11 A She was the -- I believe she was sole  
12 proprietor of Master Marketing. It was run as a sole  
13 proprietorship.

14 Q Why was a judgment obtained against Susan  
15 McDougal?

16 A Because there was a default on the loan of  
17 \$300,000. And Capital Management obtained a judgment  
18 against her personally in excess of \$300,000, with  
19 accrued interest and attorneys fees. That note was  
20 sitting on Capital Management's books, that  
21 judgment. David Hale swapped that note to a company  
22 known as Cole Masonry, M-a-s-o-n-r-y, along with

1 another assets -- it is a small one, it will come to  
2 me in a moment.

3 He took those two assets and traded it over  
4 to Cole Masonry. Cole Masonry gave Capital  
5 Management back a note in the sum of \$400,000 in  
6 exchange for those to Master Marketing and -- let's  
7 go off the record for one second. I can find that.

8 MR. GICALE: Off the record.

9 (Discussion off the record.)

10 MR. GICALE: Back on the record.

11 THE WITNESS: I cannot recall the name of  
12 the second investment; it was a small investment for  
13 like \$7000 and he traded the judgment.

14 BY MR. GICALE:

15 Q He, Mr. Hale?

16 A He, Mr. Hale, traded the judgment of Master  
17 Marketing plus the second small investment of \$7000  
18 to Cole Masonry. Cole Masonry executed back to  
19 Capital Management a note in the sum of \$400,000 in  
20 exchange for that judgment and that small  
21 investment.

22 Q Now, why was that swap of interest to the

1 Small Business Administration at that point in time?

2 A Because the swap had no value, because what  
3 happened, he was taking nonperforming assets off the  
4 books, for example the Master Marketing judgment plus  
5 the other, and putting it over here and taking a new  
6 note back and trying to --

7 Q The record can't read "over here"?

8 A I'm sorry. The overall picture, as I have  
9 it, with the swaps -- and I have not had an  
10 opportunity to interview David Hale so I am giving  
11 you what my conclusion was -- was that he was taking  
12 nonperforming assets --

13 Q In this instance, a judgment against Susan  
14 McDougal?

15 A A judgment against Susan McDougal and  
16 another asset and trading it to another company, Cole  
17 Masonry. Cole Masonry would then execute a note back  
18 to Capital Management for \$400,000.

19 Mr. Hale would then submit a form to the  
20 Small Business Administration called a form 1031,  
21 saying that he had made a new investment in a small  
22 business. What the effect of that did was took in --



1 Q In this instance, the small business was  
2 Cole Masonry?

3 A In effect he was trying to tell the Small  
4 Business Administration that he had made an  
5 investment in a small business for \$400,000, into  
6 Cole Masonry, when in fact, no money changed hands at  
7 all. All they did was change paper.

8 Q Now, to explain -- what would be the  
9 result -- strike that.

10 Why would Mr. Hale want to represent to the  
11 Small Business Administration he was making an  
12 additional investment in a small business --

13 MR. GICALE: Off the record.

14 (Discussion off the record.)

15 (The reporter read the record as requested.)

16 THE WITNESS: The effect of the swaps would  
17 be to give the Small Business Administration a false  
18 picture of the financial strength of Capital  
19 Management. For example, by him showing a \$400,000  
20 investment in Cole Masonry and that it was a  
21 performing note, the Small Business Administration  
22 would look at that favorably as far as trying to

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1 provide leverage to Capital Management, because it  
2 would look like he had performing assets on his books  
3 when in fact they were not performing assets.

4 BY MR. GICALE:

5 Q Now, as a part of his business, he would  
6 obtain assets and then go to the Small Business  
7 Administration to obtain additional moneys from the  
8 Small Business Administration, more than matching  
9 funds, sometimes as much as three times as much, I  
10 guess, of the assets that he had or some ratio?

11 A Well, we need to clarify here.

12 Q Okay.

13 A When you talk about him obtaining assets,  
14 it is not -- the matching funds go to the amount of  
15 private capital that is contributed.

16 Q Right.

17 A He must contribute private capital. It  
18 doesn't have anything to do with the investments on  
19 his books. It has to do with the amount of private  
20 money that he puts in, or his investors or  
21 stockholders put in, not the assets on the books.  
22 The assets on the books are examined in order to

1 determine the financial strength of the company, but  
2 the matching funds or leverage we talk about is based  
3 upon the fact of the private capital placed into the  
4 company.

5 Q Additional capital?

6 A That's correct. For example, an SBIC,  
7 which I am going to refer to generically as an SBIC  
8 as opposed to a SSBIC, just for the sake of  
9 convenience, in order to get licensed must have a  
10 minimal amount of private capital. When David Hale  
11 first started his SSBIC back in 1982 that minimal  
12 amount of capital was \$125,000 or \$150,000. He was  
13 allowed to draw down leverage based upon that  
14 number.

15 Q And when you say "leverage," you mean  
16 additional funds from SBA?

17 A Additional funds from SBA, that's correct,  
18 sir. If you want to continue to draw down more money  
19 from SBA, you must continue to contribute more  
20 private capital. Now, you can continue to draw down  
21 at a level, as you said, of three to one, but you  
22 must also increase your own amount of capital that

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1 goes into the company.

2 Q So, by swapping these assets, he was doing  
3 this to enhance his -- the financial assets of the  
4 corporation, not in an effort to obtain additional  
5 leverage, but just in terms of the status quo, with  
6 respect to --

7 A That's correct. An SBIC is required to  
8 file an annual financial statement every year called  
9 a 468, and on that thing, must report on the status  
10 of every investment within the SBIC. So it is  
11 important whenever, A, the financial people get it  
12 here, the form is filed here, and also when our  
13 examiners go in, they will look at whether or not  
14 those are performing assets and whether they are real  
15 assets. And that's how we determine capital  
16 impairment.

17 Q This is a -- so is this an asset he had  
18 used in the past for leverage in the SBA, or just to  
19 capitalize in the very beginning?

20 A When you say "this," are you talking  
21 about --

22 Q The swap note that you just referenced.

1 A No. I think we need to go back.

2 When an SBIC is formed, the investors or  
3 the corporation must have an initial amount of  
4 private capital, so in David Hale's situation with  
5 Capital Management, he had \$125,000 in the bank, the  
6 SBA would look at that, and based upon that, he would  
7 be allowed to have leverage.

8 Where the assets like Cole Masonry or  
9 Master Marketing come into play is that he will only  
10 be able to obtain additional leverage, where the SBA  
11 will give Capital Management money, based upon the  
12 amount of new private capital that he would place in  
13 the company. Outside of the current assets on the  
14 books, he would have to reach out and take money in  
15 from another source.

16 But where the assets come into play is the  
17 SBA will also look at the financial strength of an  
18 SBIC at the time it grants the leverage or grants it  
19 additional funds.

20 So for example, if David Hale had 10 assets  
21 on his books that were all nonperforming, and then he  
22 came to SBA and said I am going to put another

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1 \$500,000 into Capital Management, SBA, will you match  
2 it three to one? SBA will probably say no, you have  
3 10 nonperforming assets here; we don't care whether  
4 you are putting \$500,000 in, we are not going to  
5 grant you additional leverage. That's the  
6 distinction of the value of the assets as opposed to  
7 private capital.

8 Q So the swap was of concern to the SBA at  
9 that point, because it affected his company's  
10 financial condition and affected whether or not the  
11 SBA would leverage any future funds to him?

12 A Yes, sir. And that was pointed out in the  
13 examination that was conducted in late 1992, and then  
14 ended up in program sometime between December and  
15 February of 1993.

16 Q What was the other concern that was brought  
17 to your attention in January and February of 1993?

18 A The other concern was the issue involving  
19 donated hospital receivables.

20 David Hale claimed that a company known as  
21 Arkansas Commercial Development Corporation donated  
22 approximately \$13 million in hospital receivables to

1 him, Capital Management, as private capital.

2 Q Now, he was attempting to leverage that  
3 13 -- approximately, was it 13.8 million; is that  
4 correct?

5 A Somewhere along that neighborhood.

6 Q And was it medical receivables as well as  
7 capital stock of a building supply company?

8 A National Building Supply, yes, sir.

9 Q For a total of roughly \$13.8 million?

10 A Right.

11 Q Now, what was he attempting to do with that  
12 again?

13 A As I was discussing with you previously,  
14 this is an example where he was trying to show that  
15 he had an increase in private capital. By saying  
16 that he had received these donated hospital  
17 receivables, he was trying to get SBA to put a value  
18 of \$13 million on its books as a donated private  
19 capital. And he sought from SBA additional leverage  
20 of \$6 million, based upon those donated hospital  
21 receivables.

22 And the reason it came to our attention was

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1 that, donated hospital receivables, A, are not cash;  
2 B, when our examiners tried to confirm where the  
3 hospital receivables came from, they tracked it back  
4 to a company in the Cayman Islands, and that sent off  
5 alarm bells, with the Cayman Islands.

6 In addition, when we tried to get  
7 confirmation from David Hale as to who was Central  
8 Arkansas Development and what was the source of the  
9 donated hospital receivables, he would not provide  
10 that confirmation.

11 Q Now, why was the fact that the receivables  
12 were not cash, why was that an issue with the SBA?

13 A Cash is king.

14 Q But was it a requirement for these  
15 leveraged situations?

16 A Yes, yes, sir. Cash is almost always what  
17 we -- I cannot think of any other time where we  
18 leveraged anything other than cash.

19 Q Now, why is it, with these two instances,  
20 you were brought into this matter in the spring of  
21 1993?

22 A I have the responsibility for liquidating



1 all of the SBICs over the entire country. In  
2 situations where they believe there might be a  
3 liquidation plan, where they are going to move the  
4 company from the operations side of the house to the  
5 liquidations side of the house, I will often be  
6 consulted. I will often also be consulted if they  
7 look at something and it appears to them to be less  
8 than appropriate, and they will call me in to say  
9 will you please examine this and what do you think.

10 Q So you were called in on that basis on  
11 both -- for both --

12 A For both reasons.

13 Q Was there any discussion regarding Castle  
14 Sewer & Water that the point?

15 A No, sir.

16 Q What, if anything, did you do as result of  
17 the request to have you review this situation?

18 A In the early spring of 1993, I participated  
19 in a couple of meetings with the program people, up  
20 until the point there was a criminal referral, to the  
21 Inspector General in May of 1993. And then in  
22 June --

1 Q All right. Now, to back up for a second,  
2 do you know what the dates of those meetings were and  
3 who was present?

4 A I can't recall the specifics dates of the  
5 meetings. I know that I was involved in meetings  
6 with Mr. Newell, who was the director of the program,  
7 and also Ms. Dawson, who was the chief, and  
8 Mr. Peterson, that's Walter Peterson, who was the  
9 account financial analyst. Mr. Peterson's title at  
10 that point in time was financial analyst.

11 Q He worked for the SBA?

12 A Yes.

13 Q But was an analyst overseeing Capital  
14 Management?

15 A Yes, sir. Just for purposes of the  
16 deposition, it might be helpful -- there is a  
17 financial analyst that does the day-to-day casework  
18 that has an SBIC assigned to them. That financial  
19 analyst reports to a chief, which would have been  
20 Ms. Dawson. Ms. Dawson reported to Mr. Newell, who  
21 was the director of operations. Mr. Newell reported  
22 to Mr. Foren, who was the associate administrator for

1 investment.

2 Q Now, was Mr. Foren involved in these  
3 meetings?

4 A In the early stages I do not recall being  
5 in any meetings with Mr. Foren in -- before May of  
6 1993. I recall being in meetings after May of 1993  
7 with Mr. Foren, but I can't remember specifically  
8 back then.

9 Q Do you recall how many meetings before May  
10 of 1993 occurred?

11 A I do not recall.

12 Q What was discussed at the meetings, do you  
13 recall?

14 A The hospital receivables and the swaps, the  
15 material that was contained in the December 1992  
16 examination report.

17 Q Now, as a result of the examination report,  
18 what determinations were made and what decisions did  
19 you and the other individuals make in terms of this  
20 referral to the Inspector General?

21 A Well, one of the decisions that was made  
22 was to make a referral to the Inspector General. The

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1 other decision that was made is that we wanted to  
2 start doing some investigation in looking at Capital  
3 Management to see if we could learn anything about  
4 the company from outside sources. So, for example,  
5 we started to check Dun & Bradstreet.

6 Q To back up for a second, what were the  
7 conclusions with respect to the report, and with  
8 respect to the swap, and the \$13.8 million leveraged  
9 investment? Were the conclusions what you have just  
10 enumerated here previously, or were there some  
11 additional conclusions drawn as a result of that  
12 examination?

13 A There was a conclusion to make a referral  
14 to the Inspector General. At the same time -- and I  
15 can't remember whether -- what the cutoff date was.  
16 There is a fluid time period in the spring and summer  
17 of 1993. We were also trying to determine other  
18 information about Capital Management; for example, he  
19 filed a 1031 on a company called Financial Services  
20 of America, or something like that.

21 Mr. Peterson did some checking and found  
22 out that there was nobody at that address.

1   Supposedly they had 60 employees, but yet there was  
2   nobody at that address. We had somebody from our  
3   local office take a drive by the address and it was  
4   merely a name drop, a Post Office drop.

5           So this was an ongoing process throughout  
6   the spring and early summer of 1993.

7       Q   Now, you referred it to the Inspector  
8   General because you believed a fraud had been  
9   perpetrated against SBA?

10      A   Mr. Foren made the referral to the  
11   Inspector General, yes, sir.

12      Q   Was that pursuant to your recommendation?

13      A   I don't believe he ever asked me for a  
14   formal recommendation. I believe he ultimately did  
15   that on his own.

16      Q   Did you agree with that recommendation to  
17   send it to the Inspector General?

18      A   Yes.

19      Q   On what basis?

20      A   The fact that I thought that the hospital  
21   receivables caused a lot of questions in my mind, and  
22   the fact that the swaps did not appear to me to be

1   real deals, that they needed to be investigated  
2   quickly.

3       Q   Okay. Now, this matter was referred to the  
4   Inspector General's Office on May 5th, 1993; is that  
5   correct?

6       A   That's correct.

7       Q   Now, did you -- Mr. Bowles was confirmed as  
8   administrator of the SBA on May 6, 1993?

9       A   I don't know that to be the fact. It  
10   wouldn't surprise me, but I am saying I don't --

11      Q   Did you discuss this matter with him prior  
12   to his confirmation?

13      A   No, sir.

14      Q   After this matter was referred to the  
15   Inspector General, what, if anything, did you have to  
16   do with the matter?

17      A   During the summer of 1993, Mr. Peterson was  
18   continuing doing some work, trying to find out what  
19   was the story on Capital Management. Around the  
20   middle of June of 1993, Mr. Peterson received a phone  
21   call and also a letter from the Federal Bureau of  
22   Investigation, the FBI, asking for additional

1 documentation and information from SBA.

2 And from that point on, I became active in  
3 the discussions, both with the FBI and also with  
4 Assistant United States Attorney Fletcher Jackson;  
5 that was throughout the summer of 1993.

6 Q Who did you work with from the Federal  
7 Bureau of Investigation, which agents?

8 A Off the record for one second.

9 MR. GICALE: You can go off.

10 (Discussion off the record.)

11 THE WITNESS: During the discussion, I just  
12 asked if it was appropriate under the circumstances  
13 to divulge the names of the agents that I worked with  
14 at the FBI. I understand from committee counsel that  
15 it has been --

16 MR. GICALE: Both Mr. Ivey and myself have  
17 indicated we have received copies of documents with  
18 names of agents on those documents, so that the names  
19 of agents have been disclosed to the committee in the  
20 process of the -- in the discovery process. And the  
21 Independent Counsel's office is aware, I believe,  
22 that we have received copies of documents.

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1 MR. IVEY: Yes. My understanding would be  
2 that there shouldn't be anything wrong with this  
3 witness disclosing those names, certainly it's being  
4 done at an inquiry by committee counsel, and this  
5 deposition is committee confidential. If those names  
6 are disclosed at any point, that will be a decision  
7 by the committee and not Mr. Stephens.

8 THE WITNESS: Thank you. I appreciate  
9 that. Special agent David Reign, R-e-i-g-n, was the  
10 primary person that I dealt with.

11 BY MR. GICALE:

12 Q What specific request did Mr. Reign make of  
13 you with respect -- you and your agency with respect  
14 to Capital Management Services?

15 A There was a letter, I believe dated June  
16 the 14th of 1993, where Mr. Reign wrote to  
17 Mr. Peterson and asked for information. There were  
18 also telephone calls from Agent Reign to  
19 Mr. Peterson. And starting towards the end of July  
20 of 1993, we began to get letters and telephone  
21 requests for information from Assistant United States  
22 Attorney Fletcher Jackson.



1 Q Now, what did the FBI agents and  
2 Mr. Jackson express an interest in with respect to  
3 the items -- strike that.

4 What information did they request from you  
5 with respect to Capital Management Services?

6 A I believe initially the request for  
7 information concerned the 1988 leverage which was  
8 obtained by Capital Management. The only reason I am  
9 hesitating is that, over the course of two years, we  
10 had a request for a lot of different information and  
11 I just don't want to be inaccurate when I say that.  
12 But I know there was a letter from Mr. Reign to  
13 Mr. Peterson requesting information regarding the  
14 1988 leverage, and Mr. Jackson's indictment of  
15 Mr. Hale referred to the 1988 leverage.

16 Q Can you describe the issue that came up  
17 with respect to the 1988 leverage?

18 A Yes. In 1988, Mr. Hale was involved in a  
19 plan or scheme in order to obtain leverage from the  
20 Small Business Administration. What he did, I  
21 believe -- and I think this is what he pled guilty to  
22 although the plea itself doesn't go into this level

1 of detail -- Mr. Hale was working with people at  
2 Prudential-Bache Securities in Little Rock. There  
3 was a lady who had an account there by the name of  
4 Mrs. Townsend, T-o-w-n-s-e-n-d. Mrs. Townsend had a  
5 son by the name of Harry Townsend who had access to  
6 his mother's account.

7 Mr. Hale had a person by the name of  
8 Charles Matthews who was the person working at  
9 Prudential-Bache who made arrangements to borrow  
10 money out of Mrs. Townsend's account, shoot it over  
11 to Capital Management. Mr. Hale then used that money  
12 to purchase cashier's checks in order to make  
13 payments on companies in Capital Management's  
14 portfolio that were nonperforming up until that time,  
15 thereby giving the impression that \$400,000 worth of  
16 payments had been made on accounts that had been  
17 outstanding for many years.

18 That was one level, and that was one  
19 channel he shot down \$400,000.

20 He also took --

21 Q What do you mean, "shot down"?

22 A Well, in Mr. Jackson's letter, if I could

1 see -- I believe I produced a copy of Mr. Jackson's  
2 letter. There is a chart that will show the Townsend  
3 transaction. And it might be easier for me to walk  
4 you through that.

5 MR. IVEY: It will be fun trying to talk  
6 through that diagram.

7 MR. GICALE: Off the record for a second.  
8 (Discussion off the record.)

9 MR. GICALE: Back on the record.

10 BY MR. GICALE:

11 Q You've described there was a letter to  
12 Mr. Peterson from Fletcher Jackson dated July 29,  
13 1993 with respect to Capital Management, wherein he  
14 outlined the 1988 transaction; correct?

15 A That's correct, sir.

16 Q And attached to that letter, he attached a  
17 diagram; the title of the diagram was transaction 1.  
18 And you brought this along with you to the deposition  
19 and you're using this document to refresh your  
20 recollection; is that correct?

21 A That's correct, sir.

22 Q And after reviewing it, can you describe

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1 what the transaction was?

2 A Yes, sir.

3 At the top of the chart you will see --

4 Q Again, this is going to be for the record.

5 A I know but I need to be able to read -- I  
6 can't read upside down.

7 Q Right.

8 A At the top of the chart, you will notice  
9 there are three boxes, these are what we call the  
10 Townsend accounts.

11 The money was diverted initially out of  
12 Mrs. Townsend's accounts into the Fitzhugh  
13 Foundation.

14 Q Now, there are three accounts, one is for  
15 \$35,000, one is for 290,000, one is for 475,000?

16 A For a total of \$800,000, which was  
17 deposited where you see the notation of 11/3/88.

18 Q Again, this is for the record, so just  
19 indicate where it was deposited.

20 A It was deposited into the Fitzhugh  
21 Foundation, F-i-t-z-h-u-g-h. The Fitzhugh Foundation  
22 was owned and controlled by attorney Eugene Fitzhugh

1 who was also a codefendant of Mr. Hale's, who has now  
2 pled guilty.

3 What the Fitzhugh Foundation did, the money  
4 was then shot out in two different streams; a  
5 \$400,000 shot to Diversified Capital Investments,  
6 which was a company owned and controlled by David  
7 Hale.

8 Q When you say "shot out," 400,000 was  
9 conveyed to Diversified Capital Investments; correct?

10 A Yes, sir, that was done by wire transfer  
11 dated November the 4th of 1988.

12 Q Okay.

13 A That \$400,000 was then transferred into  
14 David Hale's name personally, which is where it goes  
15 into the issue of his private capital increase for  
16 purposes of leverage.

17 Q So it went into his name personally?

18 A Yes, sir, and it was deposited into the  
19 Pulaski, P-u-l-a-s-k-i, Bank & Trust.

20 Q Did he convey that to Capital Management?

21 A He then in turn conveyed that \$400,000 to  
22 Capital Management which is what's reflected here on

1 the chart.

2 Q Again, this is not an exhibit.

3 A Yes, that money was then put into Capital  
4 Management, again, on November the 4th of 1988, and  
5 he evidenced that, showing an increase in private  
6 capital.

7 Q Let me --

8 A That's the 400,000 on the left-hand side of  
9 the chart.

10 Q Again, the chart is not an exhibit or part  
11 of this record so just explain again for the record.

12 A That \$400,000 was then utilized by cutting  
13 three checks on November 7, 9 and 14, one in the  
14 amount of \$300,000; another one -- I'm sorry, I  
15 misspoke. I have to get the other \$400,000 down.

16 There also was another transaction out of  
17 the Fitzhugh Foundation for \$400,000. That \$400,000  
18 was sent over to Prudential-Bache and then cashier's  
19 checks were cut in the amounts of \$380,000 by Sunbelt  
20 Group, \$11,175 for Richard Grassby, and \$8250 by  
21 MaBe, M-a-B-e, Communications.

22 Q Now, Pru-Bache made checks payable to these

1 individuals -- these companies, Sunbelt, Richard  
2 Grassby, G-r-a-s-s-b-y --

3 A Prudential-Bache didn't actually make the  
4 checks out. What they did was they purchased  
5 cashier's checks. Mr. Hale had a straw person who  
6 went to the bank and purchased these cashier's checks  
7 in these amounts.

8 Q But made them payable to these  
9 organizations and/or individuals?

10 A No. The \$400,000, the checks were  
11 purchased by, for example, in this case, Sunbelt  
12 Group, Inc. for \$380,000. When that check was  
13 purchased by Sunbelt, it was made payable to Capital  
14 Management Services.

15 So what David Hale did was he had a  
16 cashier's check that was drawn out of the  
17 Prudential-Bache account, he then had a cashier's  
18 check made payable to Capital Management by Sunbelt,  
19 Inc. Sunbelt had never made a payment prior to  
20 this. And so then when that check got deposited to  
21 Capital Management Services, it look like Sunbelt had  
22 made the payment, when in fact the money had been

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1 diverted out of Prudential-Bache.

2 Q Now, Sunbelt was a company that owed  
3 payments to Capital Management Services?

4 A That's correct. And the same thing with  
5 Richard Grassby, and the same thing with MaBe  
6 Communications.

7 Q They likewise owed payments to Capital  
8 Management Services that were delinquent and this was  
9 a vehicle for --

10 A In order to clean up his books, and it made  
11 it look like these accounts were becoming current.

12 Q Okay.

13 A The right-hand side of the chart, reflects  
14 another \$400,000, so on November -- between November  
15 4 and November 9, it shows a total increase of cash  
16 into Capital Management totaling \$800,000; 400,000  
17 through diversion of funds down through Diversified  
18 Capital, and 400 through the payments of the three  
19 checks by Sunbelt, Grassby and MaBe Communications.

20 Now just for the record, nobody at Sunbelt  
21 nor Richard Grassby nor MaBe Communications knew  
22 anything about these payments being made. These were



1 all done by David Hale through his straw person.

2 So in effect, what happened is Capital  
3 Management showed an increase in cash of \$800,000 as  
4 of those dates. It is my view that David Hale then  
5 had to get that money back to Mrs. Townsend. So what  
6 he did is he cut three checks to supposed small  
7 businesses, McIntire Numistics, N-u-m-i-s-t-i-c-s;  
8 Lame, Inc.; and River Valley Hydraulics.

9 So, for example, in the McIntire situation,  
10 he wrote a check for \$300,000 and gave to it  
11 Mr. McIntire.

12 Q On which account, Capital Management?

13 A On Capital Management's account.

14 He then went back to Mr. McIntire the next  
15 day and said -- no, I strike that. Mr. McIntire was  
16 a client of Mr. Fitzhugh. Mr. Fitzhugh then went  
17 back to Mr. McIntire the next day and said David Hale  
18 needs that money back, we need you to write the check  
19 back, to get the money back to Capital Management.  
20 But he directed Mr. McIntire not to make the check  
21 payable to Capital Management, but to make the check  
22 payable to Gerald Nesbit.

1 Mr. McIntire has now given us an affidavit  
2 where he says why am I paying Gerald Nesbit for a  
3 debt owed to Capital Management. The reason he was  
4 paying Gerald Nesbit was because Gerald Nesbit's  
5 wife, Margaret Hardin, worked at Prudential-Bache  
6 where she was the partner of Charles Matthews, so  
7 this was their way to get the money back into  
8 Prudential-Bache.

9 McIntire gives Nesbit the check, Nesbit  
10 gives the check to Hardin, Hardin gives the check to  
11 Matthews, and Matthews puts the money back into Mrs.  
12 Townsend's account so they wash the whole thing  
13 through over the period of seven days. The advantage  
14 to David Hale in this is that he was able to clear up  
15 three accounts on his books. He also --

16 Q And the three accounts were Sunbelt,  
17 Grassby and MaBe Communications?

18 A Yes. And at the same time, coincidentally,  
19 he filed a request for additional leverage from the  
20 SBA, asking for more money based upon the fact that  
21 he claimed that he had an increase in private  
22 capital, which is the \$400,000 coming on the

1 left-hand side of the chart.

2 Q Again, I appreciate if you don't reference  
3 the chart.

4 A I'm sorry.

5 Q So, he -- based on this alleged influx of  
6 capital, he was able to go to SBA and ask for some  
7 additional leveraged capital for his company; is that  
8 correct?

9 A That's correct.

10 Q Now, also, there were other funds that went  
11 back to Prudential-Bache, some through Lane,  
12 Incorporated; River Valley Hydraulics; is that  
13 correct?

14 A In Lane, Inc., L-a-m-e, Robert Hall was an  
15 attorney that did some work for Capital Management,  
16 and they formed this corporation, called Lane, Inc.  
17 and just basically did it as a pass-through.

18 Q Well, conveyed the \$300,000 back to  
19 Prudential-Bache?

20 A That's correct.

21 Q And then with River Valley Hydraulics,  
22 \$200,000 was conveyed from David Hale Capital

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1 Management to River Valley Hydraulics, and then  
2 another 200,000 went to Prudential-Bache again; is  
3 that correct?

4 A I mean there is a story behind how that  
5 money got diverted, which I am willing to give you if  
6 you like.

7 Q Go ahead.

8 A River Valley Hydraulics, he claimed he gave  
9 the money to the president of River Valley  
10 Hydraulics.

11 Q David Hale?

12 A David Hale. And the person's name escapes  
13 me -- Grant Vaughn. I interviewed Grant Vaughn,  
14 Grant Vaughn claimed he never got the \$200,000. They  
15 forged the documents and misspelled Grant Vaughn's  
16 name on the promissory note.

17 Again there was a person by the name of  
18 Skinner involved who was a client of Gene Fitzhugh's,  
19 so I think they were using River Valley Hydraulics as  
20 a straw.

21 Q In any event, so there were three amounts  
22 that went out from Capital Management, one to

1 McIntire for 300,000; one to Lame, Incorporated for  
2 300,000; one to Red River for 200,000; which  
3 eventually found their way into the Prudential-Bache  
4 Townsend accounts totaling \$800,000; is that correct?

5 A That's correct.

6 Q Now, to sum up at this point, Mr. Jackson's  
7 letter to -- on July 29, 1993 was a letter regarding  
8 the transaction that you just described in great  
9 detail to us with respect to the \$800,000 coming out  
10 of the Prudential-Bache account and then to various  
11 entities and into Capital Management and back to  
12 Prudential-Bache; correct?

13 A That's correct, sir.

14 Q You had referred to him -- strike that.

15 The matter was -- that was initially  
16 referred to the Inspector General was not that  
17 transaction, but concerns with respect to the  
18 leveraging of the \$13.8 million in 1992, based on  
19 some assets from the Cayman Islands that you had  
20 questions about in terms of source and value, and  
21 some medical receivables and some building supply  
22 stock; correct?

1 A That's correct. The only issue I wanted to  
2 convey to you was the Cayman Islands, there was a tie  
3 to the Cayman Islands but the assets didn't come from  
4 the Cayman Islands.

5 Q But in any event, the initial referral  
6 dealt with the 1992 transaction wherein David Hale  
7 was attempting to seek some leverage based on \$13.8  
8 million worth of what he claimed were new assets to  
9 his corporation. However, the request from  
10 Mr. Jackson in July was with respect to a 1988  
11 transaction which you described in detail?

12 A That is correct, sir.

13 Q Now, at that point in time, did Mr. Jackson  
14 also indicate to you that they had an interest in  
15 looking at a somewhat similar transaction that had  
16 occurred in March of 1986?

17 A Yes, sir. I believe it was in his cover  
18 letter. He said he also believed he had concerns  
19 about the 1986 leverage.

20 Q Now, let's mark this.

21 MR. GICALE: Off the record.

22 (Discussion off the record.)

1 (Stephens Exhibit 1 identified.)

2 BY MR. GICALE:

3 Q Showing you Stephens 1, this is the letter  
4 from Fletcher Jackson that you were referring to  
5 dated July 29, 1993; correct?

6 A That's correct, sir.

7 Q However, it does not have the attached  
8 diagram that you had earlier referred to; correct?

9 A That is correct, sir.

10 Q And we've indicated that, at the end of  
11 this session, we will obtain a copy of that which we  
12 will mark for identification and make it part of this  
13 record; correct?

14 A That is correct, sir.

15 Q Now, directing your attention to the bottom  
16 of this exhibit, the second to last full paragraph,  
17 starting out with "I think something similar occurred  
18 in March of 1986 and 1,500,000 leverage on the basis  
19 of \$502,000 in new capital"?

20 A That's correct, sir.

21 Q Is that the transaction that Mr. Jackson  
22 was also concerned about; is that another transaction

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1 that he was also concerned about?

2 A Yes, sir, that's what his letter indicated.

3 Q Did you know at that point in time, the  
4 details of the March 1986 transaction that he was  
5 seeking information on?

6 A No, I did not.

7 Q As a result of that letter and the inquiry  
8 you received with respect to the \$800,000 in 1988  
9 transaction, what steps did you take in your agency  
10 then?

11 A Sometime shortly after July 29, the first  
12 week of August, we met internally as a group to  
13 respond to Mr. Jackson's letter, to determine what  
14 source of action we were going to take. And we  
15 decided to send a team to Little Rock, to meet with  
16 Mr. Jackson and to review documents in order to  
17 determine if we had enough to place the company into  
18 liquidation.

19 Q And were you a part of that team?

20 A Yes, sir.

21 Q And did you go to Little Rock?

22 A Yes, I did.



1 Q And what did you do when you got to Little  
2 Rock?

3 A We met with Mr. Jackson at the FBI  
4 headquarters in Little Rock. There was a team from  
5 SBA, Mr. Peterson, and myself, and a few others. And  
6 we met with Mr. Jackson, Special Agent Reign, and  
7 Gretchen Hall who was also with the FBI, to review  
8 the documents regarding this transaction.

9 Q Which transaction?

10 A The 1988 transaction.

11 And Mr. Jackson also showed us some  
12 additional information that he had obtained through a  
13 visit to Dallas, where our examiner was, when he was  
14 looking at the information regarding National  
15 Building Supply, which is what we referred to earlier  
16 about the 1992 information.

17 Q Okay.

18 A And he also asked us some questions about  
19 the 1986 transactions and asked us if we knew  
20 anything about Castle Water & Sewer, and walked us  
21 basically through the portfolio. And it was at that  
22 point in time that we learned that the FBI had

1 already gone in with a search warrant and hit Capital  
2 Management on July the 20th. Prior to that, we did  
3 not have any knowledge that they had gone in and  
4 already taken the documents or at least whatever was  
5 applicable to the search warrants.

6 Q Do you recall the date of your meeting,  
7 Mr. Jackson in Little Rock to discuss these matters?

8 A Sometime between the 4th of August and the  
9 16th of August.

10 Q When you said that you initially met  
11 internally -- and I am not talking about Little Rock  
12 but prior to going to Little Rock -- you met on  
13 August 5th, 1993, you developed a response to the  
14 July 29, 1993 letter of Fletcher Jackson; is that  
15 correct?

16 A That's correct, sir.

17 Q The members of the team were Shepperson,  
18 Newell, N-e-w-e-l-l?

19 A In attendance at the meeting?

20 Q Yes.

21 A In attendance at the meeting --

22 Q Were Shepperson, Newell, Sboeski, yourself,

1 Cooper, Messenger, Morris, and Peterson; correct?

2 A That sounds right if that's what the memo  
3 reflects. I mean I can't remember exactly who was  
4 there.

5 Q Do you recall anyone else that may have  
6 been at that meeting?

7 A No, I believe that's probably all who would  
8 have been there.

9 MR. IVEY: Which memo was that?

10 MR. GICALE: Off the record.

11 (Discussion off the record.)

12 MR. GICALE: Back on the record.

13 BY MR. GICALE:

14 Q The memo you just referenced was an August  
15 5, 1993 memo to SSBIC files from Walter Peterson  
16 regarding Capital Management Services; is that  
17 correct?

18 A Yes, this is what this document reflects,  
19 yes.

20 Q Does that document refresh your  
21 recollection as to the attendees at that meeting on  
22 August 5, 1993?

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1 A I would assume that's who was at the  
2 meeting, if that's who he says was there. I have no  
3 reason to believe anyone else was there or wasn't  
4 there.

5 Q What's your own recollection of it?

6 A That -- that's who I believe was there.

7 Q The names that I recited earlier?

8 A Yes.

9 Q Now, subsequent to that meeting, or on the  
10 same date of that meeting, Mr. Jackson faxed to you a  
11 copy of a draft of the indictment; is that correct,  
12 if you recall?

13 A He was faxing me a lot of things back  
14 then. I do recall receiving a draft of an  
15 indictment; I can't remember if it was that day or  
16 not.

17 Q In any event, did you receive a copy of the  
18 draft of the indictment before you went to little  
19 Rock to meet Mr. Jackson?

20 A I don't recall whether I got it before or  
21 after.

22 Q I am going to show you -- in any event, you

1 recall seeing a copy of the draft of the indictment?

2 A Yes, I definitely received a copy of the  
3 draft of the indictment. I just can't remember  
4 whether I got it before or after or while I was  
5 there.

6 MR. GICALE: Will you mark this as Exhibit  
7 2.

8 (Stephens Exhibit 2 identified.)

9 BY MR. GICALE:

10 Q I am going to show you what's marked for  
11 identification as Stephens Exhibit Number 2 and this  
12 is a summary submitted by Wayne Foren, dated October  
13 24th, 1995. And I am going to direct your specific  
14 attention to tab O in this exhibit. Tab O is a memo  
15 to Erskine Bowles dated August 9, 1993, from Wayne  
16 Foren, regarding subject matter Capital Management  
17 Services, Inc.

18 Did you receive a copy of this memo, or  
19 were you aware that it was being conveyed to  
20 Mr. Bowles?

21 A I don't recall seeing this memo.

22 Q Well, do you recall whether or not by that

1 date, August 9, whether you had received a copy of  
2 the draft indictment?

3 A By the 9th?

4 Q If you know.

5 A I don't know. I mean whatever the date is  
6 Fletcher sent me the letter is the date I got the  
7 draft indictment. I must have got it because there  
8 is the draft indictment.

9 Q Did you take part in any briefing of  
10 Mr. Bowles with respect to the status of matters as  
11 of August 9, 1993?

12 A No, I did not.

13 Q Now, your superior at that time would have  
14 been whom?

15 A Martin Teckler was the deputy general  
16 counsel, and I don't believe Mr. Spotilia had come on  
17 board yet. But I believe it was Mr. Teckler.

18 Q So when developments occurred with respect  
19 to this case, who would you inform of those  
20 developments, Mr. Teckler?

21 A Mr. Teckler.

22 Q Did you make Mr. Teckler aware of the fact

1 that the U.S. Attorney's Office was looking at this  
2 1988 transaction, and possibly the 1986 transaction  
3 as well?

4 A I informed Mr. Teckler of whatever I knew.  
5 I mean I can't remember specifically if I said '86 or  
6 '88. Certainly I would have told him about the 1988  
7 transaction.

8 Q Do you know whether or not Mr. Teckler then  
9 briefed Mr. Bowles or anyone else?

10 A I don't know.

11 MR. GICALE: Off the record.

12 (Discussion off the record.)

13 MR. GICALE: Could you mark this for  
14 identification as Exhibit 3.

15 (Stephens Exhibit 3 identified.)

16 BY MR. GICALE:

17 Q I'm showing you what has been marked for  
18 identification as Stephens Exhibit Number 3. These  
19 are copies of notes which we received pursuant to --  
20 the committee received pursuant to its request for  
21 production, and this is a copy of notes dated August  
22 10, 1993. Is this copy of notes in your handwriting?

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1 A These are my notes.

2 Q And are these notes with respect to the  
3 meeting that you had in Little Rock with Fletcher  
4 Jackson, Gretchen Hall from the FBI, and other  
5 individuals from the Small Business Administration?

6 A Yes, they are.

7 Q And this is the meeting you earlier  
8 described that you had?

9 A Yes, sir.

10 Q With Mr. Jackson?

11 A Yes, sir.

12 Q The first meeting in Little Rock?

13 A Yes, sir.

14 Q And this is where you learned that  
15 Mr. Jackson had some information with respect to the  
16 1986 transaction, or he had asked some questions with  
17 respect to that transaction, and he had some  
18 additional information with respect to the seizure of  
19 documents from Mr. Hale in July of 1993; correct?

20 A That's correct, sir.

21 Q Did he share any details of the seizure of  
22 documents from Mr. Hale on the 20th at that meeting?



1 A Not that I recall.

2 Q He just indicated to you that they had  
3 obtained documents from Mr. Hale?

4 A Yes, I believe that's all he indicated,  
5 that there was a search warrant issued and that  
6 documents had been already taken into their  
7 possession.

8 Q Did he give you any details as to the 1986  
9 transaction at this point in time?

10 A No. Most of the focus at that point in  
11 time was on the '88 transaction and the leverage,  
12 talking about National Building Supply. And he  
13 indicated to us that, as my notes indicate, he talked  
14 about McIntire's, where McIntire's Coin Shop was, and  
15 Lane.

16 Q McIntire, by the way, was one of the  
17 individuals to whom David Hale had conveyed some  
18 money who in turn conveyed money to the  
19 Prudential-Bache account; correct?

20 A Yes, sir.

21 Q Incidentally -- strike that. Off the  
22 record.

1 (Discussion off the record.)

2 BY MR. GICALE:

3 Q Now showing you what's marked for  
4 identification as Stephens Exhibit Number 2 again,  
5 and specifically tab number M, the beginning of tab  
6 number M is a memorandum dated August 4, 1993 to  
7 Janice Wolfe from Charles Shepperson; is that  
8 correct?

9 A Yes, sir.

10 Q And in that memo, Mr. Shepperson attaches a  
11 letter from the U.S. Attorney on the following page  
12 dated July 29, 1993. This is the letter from  
13 Mr. Jackson to Mr. Peterson; is that correct?

14 A Yes.

15 Q That we earlier identified as Stephens  
16 Exhibit Number 1?

17 A Yes.

18 Q And attached to the letter of Mr. Jackson  
19 is a copy of the diagram that you were attempting to  
20 describe earlier in your deposition; is that correct?  
21 Is that correct?

22 A That is correct.

1 Q And it is labeled "transaction 1" at the  
2 top, and it lists these individuals, McIntire, Lane,  
3 Incorporated, and River Valley Hydraulics; correct?

4 A That is correct, sir.

5 Q So in this meeting of August 10, there was  
6 some discussion about Mr. McIntire, and a coin shop  
7 he had in Jacksonville; is that correct?

8 A That's correct.

9 Q And some discussion about Lane?

10 A Yes, sir.

11 Q Who was an associate of Mr. Fitzhugh;  
12 correct?

13 A Yes, sir.

14 Q So Mr. Jackson obtained some other details  
15 with respect to the people who were involved in this  
16 transaction, and he was updating you on those  
17 details; correct?

18 A Well, Mr. Jackson, because of grand jury  
19 issues, was not sharing a lot of detail with us, a  
20 lot of information. Mr. Jackson did say that he had  
21 interviewed a number of individuals, and that if we  
22 wanted to make our case, that he felt that these are

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1 transactions we should look at.

2 Based upon that, over the next day, we  
3 fanned out and we interviewed Robert Hall,  
4 Mr. McIntire and also Mr. Vaughn. We went to their  
5 houses and their places of business and obtained  
6 affidavits from the two of the three regarding the  
7 transactions.

8 Q Now, your objective at this point was to  
9 put the -- what was your remedy at this point,  
10 civilly?

11 A At the time that Mr. Jackson sent us this  
12 transaction 1 chart, we thought that the case had  
13 proceeded a lot farther with the U.S. Attorney's  
14 Office. We thought Mr. Jackson had prepared that  
15 chart. What we came to learn in that visit was that  
16 Mr. Jackson had obtained that chart through an action  
17 that was filed by Mrs. Townsend with the National  
18 Association of Securities Dealers, and that  
19 Mr. Jackson had been working the case, had been  
20 looking at a number of issues because of that  
21 matter.

22 And what we did is we took from that, and

1 then we started to move to try to take the company  
2 down, and try to place it in receivership and take it  
3 over.

4 Q Now, when did you eventually -- what was  
5 the next step you took in terms -- after interviewing  
6 these witnesses, what's the next step you took in  
7 terms of placing this company into receivership?

8 A I advised Mr. Jackson, after our interviews  
9 with the witnesses, that we had enough to go and take  
10 the company down, that we felt that there were false  
11 statements and that we could place the company into  
12 receivership. And I said -- I asked Mr. Jackson for  
13 the name of Mr. Hale's lawyer, because I had already  
14 learned from Mr. Jackson that he had shown Mr. Hale a  
15 copy of the draft indictment. And I asked  
16 Mr. Jackson if he had any problem with me contacting  
17 Mr. Hale's lawyer and asking if he would consent to a  
18 receivership. And I did that, I contacted  
19 Mr. Coleman.

20 Q And did he consent to a receivership?

21 A Yes, sir.

22 Q And when was this -- when was Capital

1 Management put into receivership?

2 A September the 15th of 1993. That was when  
3 the court order was signed.

4 Q And who was appointed as receiver?

5 A The Small Business Administration.

6 Q Now, who was put in charge of that  
7 receivership in the Small Business Administration?

8 A Myself, as far as legal; Cecilia Seay,  
9 S-e-a-y, was our agent that was working records from  
10 Little Rock and Helen Mincer, M-i-n-c-e-r, was the  
11 program person.

12 Q Now, once -- was that the next thing that  
13 happened after you had this discussion with  
14 Mr. Hale's attorney, Mr. Coleman?

15 A We returned from Little Rock after our  
16 meeting with Mr. Jackson. I contacted Mr. Hale's  
17 attorney. We prepared the pleadings for the  
18 receivership. In order for us to obtain a  
19 receivership, we needed to file a complaint within  
20 the federal District Court where the SBIC is  
21 located.

22 We prepared the pleadings. We sent a copy

1 to Mr. Coleman to see if he would consent to them.

2 There was a back and forth with Mr. Coleman and then  
3 we got the court order obtaining the receivership.

4 Q And that would have been on September 15?

5 A That's correct, sir.

6 Q What was the next step that you took?

7 A The next step was I went back to Little  
8 Rock and met with Mr. Hale and Mr. Coleman, to obtain  
9 all of the books and records of Capital Management.

10 And we went over to Capital Management, and went into  
11 David Hale's office, and we physically packed up  
12 every document, piece of paper we could find, put it  
13 in a box, put it into in the back of the car and  
14 drove it over to the FBI, and gave it to the FBI.

15 Q Now, who were the individuals that went  
16 over to Mr. Hale's office; was it just you?

17 A It was myself, Cecilia Seay, and Beverly  
18 Nelson, N-e-l-s-o-n, who was a secretary for  
19 Ms. Seay.

20 Q And who was involved in packing up the  
21 documents and putting those documents in boxes and  
22 returning them to the FBI?

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1 A Myself, Ms. Seay, and Ms. Nelson. We  
2 weren't returning them to the FBI, we voluntarily  
3 took them to the FBI and delivered them.

4 Q Did you -- was there a receipt given to  
5 Mr. Coleman or Mr. Hale with respect to the records  
6 that you obtained?

7 A I can't remember -- I did not give  
8 Mr. Coleman or Mr. Hale a receipt. The receipt that  
9 I got back was a receipt from the FBI, which was a  
10 laundry list of all the documents that we delivered  
11 that day to the FBI.

12 Q Now, you intended to use some of those  
13 documents to continue to operate the business, or to  
14 liquidate the business I should say; correct?

15 A Absolutely.

16 Q So your intent in bringing them back to the  
17 FBI, you had an arrangement with the FBI in terms of  
18 making them available to you after you turned them  
19 over to the FBI?

20 A Yes, sir. By the time we took Capital  
21 Management down and got into receivership,  
22 Mr. Jackson had advised us that the indictment was



1 shortcoming, was going to come out in a week or so,  
2 and Mr. Hale knew that the indictment was coming.  
3 And I thought that it was better to just take those  
4 documents over to the FBI and let the FBI have access  
5 to the originals for whatever purposes they needed  
6 them. And then they would make copies and give the  
7 documents back to us as we needed them.

8 I did not need them immediately, because as  
9 part of the receivership order, we put a stay in  
10 place similar to like a bankruptcy stay, so that  
11 stops all proceedings and actions, and gives you some  
12 breathing time in order to get your arms around the  
13 company.

14 So I made the decision to take them over  
15 and turn them over to the FBI and let them have at it  
16 since they were in the middle of a criminal  
17 investigation. And the documents I am referring to  
18 now are all the original documents of Capital  
19 Management that were still left with David Hale after  
20 the search warrant had been issued on July 20th. So,  
21 they already had some documents that they had taken  
22 as of July 20. These were anything that were left

1 over after that, they were all in his office. We  
2 took every piece of paper that was there.

3 Q Now, did you copy everything before you  
4 turned it over to the FBI?

5 A No, I did not, sir.

6 Q You went directly from the offices of  
7 Capital Management to the FBI offices, and then  
8 obtained that receipt; correct?

9 A Yes. What we did was we put them in the  
10 back of two cars, Cecilia had a car and I had a car,  
11 put them in the back of the trunk, drove them over,  
12 met with Special Agent Reign and Gretchen Hall. We  
13 brought a cart down, huge cart, and loaded all the  
14 boxes onto the cart, took them up to a conference  
15 room in the FBI, and went through, did an inventory  
16 list of everything that was in each box.

17 Q Now, that inventory list was supplied to  
18 the committee in the document production; is that  
19 correct?

20 A Yes, sir. I believe that's the notation  
21 where -- from Beverly Nelson, where she said this is  
22 the enclosed list of documents.

1 Q Now, from that point forward, you could  
2 have access to those documents on an as-needed basis,  
3 or you utilized some of those documents in  
4 administering the receivership?

5 A Yes, sir. The FBI began to copy the  
6 documents, each and every file, or returned to us the  
7 originals we assumed they were not interested in.  
8 And so they periodically provided those to us over  
9 the course of time, as the documents became  
10 available, you know, as the copying proceeded.

11 Q What were the next steps you took with  
12 respect to this receivership or your investigation?

13 A Well, this dates back to September, October  
14 of 1993. We continued to provide information --

15 Q Just to back up for a second. Mr. Hale  
16 indeed was indicted after your September 15th  
17 receivership; correct?

18 A Yes.

19 Q And after you obtained these documents;  
20 correct?

21 A Yes.

22 Q Then what happened after that?

1 A We continued to have telephonic conferences  
2 with Mr. Jackson and Mr. Reign. We asked about  
3 different information. It was also about that time,  
4 that the -- there became a lot of media interest in  
5 the case because Mr. Hale went public, and we  
6 provided -- started to provide information to the  
7 House Small Business Committee at the request of  
8 Chairman LaFalce.

9 Q Now I am going to show you -- mark this for  
10 identification.

11 (Stephens Exhibit 4 identified.)

12 BY MR. GICALE:

13 Q Showing you what's marked as Stephens  
14 Exhibit Number 4, this is a letter dated October 4,  
15 1993, from the Federal Bureau of Investigation, to  
16 you, Mark Stephens, from Steve Irons of the Federal  
17 Bureau of Investigation. Is this with respect --  
18 does this letter deal with the records that you  
19 obtained from Mr. Hale's attorney, Mr. Coleman?

20 A No, sir. What this reflects is that I did  
21 not believe that I had all the documents and records  
22 from Mr. Hale, nor Mr. Coleman. And I told

1 Mr. Coleman I wanted everything, and I wanted him to  
2 go back and look at his files, and I wanted him to  
3 see what he had in his files. And Mr. Coleman had  
4 more documents, and I asked the FBI as a courtesy to  
5 have Ms. Hall go to Mr. Coleman's office and get  
6 those documents, that way we would maintain a chain  
7 of custody where the FBI continued to have the flow  
8 of documents all going into their possession and  
9 without myself or anybody else at SBA touching the  
10 documents.

11 And what this letter is referring to -- it  
12 is dated September 30 -- Gretchen went over to  
13 Mr. Coleman's office and obtained additional  
14 documents from Mr. Coleman, and this is what that's  
15 referring to.

16 Q Attached to this letter was an inventory of  
17 the records, that was the additional records that she  
18 obtained; is that correct?

19 A Yes. He also explains in here where he is  
20 starting to return copies of documents.

21 Q He, Mr. Irons?

22 A Mr. Irons.

1 Q Returning copies of documents for you to  
2 operate your receivership?

3 A Yes.

4 MR. GICALE: Mark this for identification  
5 as well -- off the record for a second.

6 (Discussion off the record.)

7 MR. GICALE: Please mark this 4-A.

8 (Stephens Exhibit 4-A identified.)

9 BY MR. GICALE:

10 Q I am showing you what's marked for  
11 identification as Stephens Exhibit 4-A. Now this is  
12 a letter, same letter, copy of the same letter dated  
13 October 4, 1993, to Mark Stephens from Mr. Irons, and  
14 attached to it are some items. Are these the items  
15 that you referred to that Ms. Hall picked up when she  
16 went to Mr. Coleman's office?

17 A Yes, sir.

18 Q That's the complete list of those items?

19 A I mean that's what the document reflects.

20 I mean I wasn't there. I assume this is what --

21 Q This is the document you received from the  
22 FBI?

1 A Yes, this is the document we received from  
2 the FBI. You will see Gretchen Hall's name is on the  
3 last couple of pages.

4 Q Now, amongst those documents, on the last  
5 page of this exhibit is a listing of payees. Those  
6 are payees on checks from Capital Management; is that  
7 correct?

8 A I believe that's what that reflects, yes.

9 Q Master Marketing and Castle Sewer & Water,  
10 are they listed there?

11 A Yes.

12 Q And Steven Smith is listed there, and by --  
13 strike that.

14 In order, Mr. Smith is listed on 2/21/86 as  
15 a payee for doing business as the communications  
16 company for \$65,000; is that correct?

17 A That's correct, that's how he is listed.

18 Q There was another payee, Castle Sewer &  
19 Water Corporation, dated 2/28/86 for \$150,000 with an  
20 endorsement by Jim Guy Tucker; is that correct?

21 A That's correct, that's what the document  
22 says.

1 Q And on April 3, 1986, a payee, Susan H.  
2 McDougal, doing business as Master Marketing for  
3 \$300,000 and it says in parentheses there,  
4 "non-endorsed"; is that correct?

5 A That is correct, sir.

6 Q Now, Master Marketing was one of the  
7 companies that you earlier referred to -- in fact,  
8 one of the initial companies you referred to in your  
9 testimony today that was involved in the swap that  
10 you looked at in the early spring of 1993; correct?

11 A That's correct, sir.

12 Q Now, after becoming aware that there were  
13 additional documents in Mr. Coleman's possession, and  
14 after becoming aware of this listing of documents,  
15 what were the next steps that you took with respect  
16 to this receivership or your investigation?

17 A Well, we continued our dialogue with the  
18 FBI, and I was continuing to try to have discussions  
19 with Mr. Coleman. And in fact, on October the 14th  
20 of 1993, I interviewed David Hale in Mr. Coleman's  
21 office to ask him about the various investments of  
22 Capital Management Services. That was one of our



1 major focuses, was to try to find out what David Hale  
2 could tell us about the investments.

3 MR. GICALE: Can you mark this for  
4 identification as an exhibit.

5 (Stephens Exhibit 5 identified.)

6 BY MR. GICALE:

7 Q Showing you what's marked for  
8 identification as Stephens Exhibit Number 5. Are  
9 these your notes of your meeting with Mr. Hale on  
10 10/14/93?

11 A Yes, sir.

12 Q Are those copies of your notes of that  
13 date?

14 A Yes.

15 Q You discussed apparently a number of  
16 corporations that Mr. Hale's company was involved in;  
17 correct?

18 A That is correct.

19 Q You discussed Cole Masonry, for instance?

20 A Yes, sir.

21 Q What did he tell you about that company?

22 A He said he traded Master Marketing and

1 Insurance Economist for a \$400,000 loan to Cole  
2 Masonry, and that, I believe, if my notes are  
3 correct, that he also said that he then swapped the  
4 Cole Masonry note to National Building Supply but  
5 then that was reversed, and Cole Masonry ended up  
6 with the Master Marketing note, and the Insurance  
7 Economist note.

8 Q Now Insurance Economist was the corporation  
9 earlier --

10 A That I couldn't remember the name, that's  
11 correct, sir.

12 Q Did you discuss any of the Castle Sewer &  
13 Water transactions with him?

14 A No, I believe on Castle -- let me just  
15 check my notes.

16 Q I will refer you to the top of the second  
17 page of your notes.

18 A Mr. Hale would not discuss the Castle Sewer  
19 & Water transaction with us in any detail.

20 Mr. Coleman was doing a lot of talking when it came  
21 to Castle Sewer & Water, and Mr. Coleman indicated to  
22 us that there was a misstated purpose as to the

1 transaction itself, and that we should go behind the  
2 distribution and pierce the corporate veil, and also  
3 recommended to take an action, to try and do  
4 equitable subordination.

5 Q Now, one of your notes, there on the top of  
6 the second page, says "Tucker put himself in a  
7 second." What does that mean?

8 A Even though it is listed under Castle, that  
9 really was more in line with the South Loop,  
10 S-o-u-t-h, L-o-o-p, Construction loan. South Loop  
11 was a wholly owned subsidiary of Castle Sewer & Water  
12 and was formed a year after the loan was made to  
13 Castle, and that involved some property that Jim Guy  
14 Tucker had originally purchased from Madison  
15 Guaranty, and that is where really Tucker had himself  
16 in as a second, not in Castle.

17 At the time I did not have a clear  
18 understanding of the relationship between Castle and  
19 South Loop. I had very little information, and the  
20 files that we had obtained from David Hale were  
21 confusing, and complex.

22 Q Now, your notes also say "Madison owned the

1 system and property." Is that the utility system  
2 what you are referring to?

3 A Yes, that's what I am referring to, is the  
4 sewer system and the real estate.

5 Q And your notes also say "Jim Guy Tucker did  
6 the filings"?

7 A Yes, that meant the legal filings, to  
8 record the notes and security instruments.

9 Q Now, this information with reference to  
10 Castle and Jim Guy Tucker came from Mr. Hale's  
11 attorney, Mr. Coleman; correct?

12 A Yes, sir. Oftentimes Mr. Coleman would  
13 direct Mr. Hale not to answer and would provide us  
14 with information.

15 Q Now, who else was present during this  
16 conversation with Mr. Hale and Mr. Coleman?

17 A I believe Mr. Morris from our liquidation  
18 division here in Washington, and --

19 Q What's his first name?

20 A Tom Morris. I just can't remember for sure  
21 if he went on that trip. There were many trips to  
22 Little Rock. I don't remember if he was there. I

1 know Cecilia Seay was there, and I believe Helen  
2 Mincer would have also been there.

3 Q Did you also discuss with either Mr. Hale  
4 and Mr. Coleman and tell us which, the Steve Smith  
5 transaction?

6 A Yes. In general, he -- he, Mr. Hale,  
7 advised us that Steve Smith was a close friend of --  
8 at that -- then-Governor Clinton and told us we  
9 should look very closely at the communications  
10 company loan, and that we should look at Steve Smith  
11 and also that Smith was involved in a loan involving  
12 Tucker and McDougal.

13 Q Now, the top of the last page of your  
14 notes, October 14, 1993, says "areas he will not talk  
15 about"?

16 A Yes, sir, I was pressing him on well, what  
17 information do you have on Steve Smith, and he also  
18 mentioned this Chematco, C-h-e-m-a-t-c-o, and Dean  
19 Paul, but he wouldn't give us any details regarding  
20 those transactions.

21 He just said -- at that point in time, you  
22 have to recall this was October of 1993, he had

1 already been indicted. He had been indicted like the  
2 third week in September so he was not forthcoming  
3 with the information. And this was just my little  
4 scribble to myself to try and remember so I could go  
5 back and try and get the information later.

6 Q Now, the second page of your notes, it says  
7 here "Madison guaranteed the bookings to pay Capital  
8 Management." This is under the notation with respect  
9 to the --

10 A That's hookups, h-o-o-k-u-p-s, that's  
11 hookups, not bookings.

12 Q What did that mean to you?

13 A The way that the Castle deal was structured  
14 was that Madison, according to Coleman, was going to  
15 make sure that Capital Management got paid through  
16 the payments on the hookups to the sewer systems. So  
17 if a person got their sewage, then that money would  
18 be enough to pay back the money to Capital  
19 Management.

20 Q To Madison or Capital?

21 A To Capital Management because Capital  
22 Management had taken Madison out.

1 Q What do you mean by taken it out?

2 A Okay. The way the Castle Water & Sewer  
3 deal was structured was that Castle purchased from  
4 Madison, for the sum of, I believe, \$1,150,000, the  
5 property and the sewer system. In doing that,  
6 \$150,000 came out of Capital Management and went  
7 directly to Madison as the down payment.

8 Q So they loaned the money to Castle Sewer &  
9 Water who in turn used it to pay Madison Guaranty?

10 A The 150,000 came from -- Capital Management  
11 went into -- Capital Management went to Madison --  
12 I'm sorry, let me back up.

13 150,000 went from Capital Management to  
14 Castle. Capital Management got stock in Castle, but  
15 the \$150,000 went from Castle to Madison Guaranty as  
16 the down payment on a purchase, money mortgage  
17 basically, where Castle ended up taking back --  
18 getting paper back from Madison, where they signed up  
19 for a note to pay Madison a million dollars.

20 So at the end of the transaction, Castle  
21 owed Madison \$1 million and also owed Capital  
22 Management \$150,000.

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1 (Recess.)

2 MR. GICALE: What was my last question?

3 (The reporter read the record as requested.)

4 BY MR. GICALE:

5 Q Then after they financed this through  
6 Madison, I take it Madison guaranteed the hookups to  
7 pay back the loan to Madison; is that --

8 A I would rather that we look at the  
9 documents. I can't remember. I know my reference is  
10 that Madison was going to guarantee the hookups and I  
11 believe what I am referring to there is what  
12 Mr. Coleman told me.

13 Q I'm sorry. Madison guaranteed the  
14 hookups? And I am referring to Exhibit Stephens 5.

15 A That's correct, that's what that says. If  
16 you are asking me as to the truth, as to is that what  
17 occurred?

18 Q No, what they told you.

19 A That's what they told me on that day.

20 Q Mr. Coleman told you Madison guaranteed the  
21 hookups to pay Capital Management their \$150,000?

22 A That's what I recall.



1 Q Now, did Mr. Coleman or Mr. Hale say  
2 anything else of significance with respect to your  
3 investigation, other than what's on these notes?

4 A Mr. Coleman gave me some information  
5 regarding the South Loop financings which was a set  
6 of real estate documents reflecting when the  
7 transactions were recorded at the courthouse, and  
8 agreed to meet with me the next day to go over those  
9 to help me understand the transaction. And he gave  
10 me those documents, referring to the South Loop  
11 Construction transaction, and Ms. Seay and I spent a  
12 lot of time going through those documents to try and  
13 figure out what had occurred, and we couldn't unravel  
14 the mystery, as they say.

15 We then came back and met with Mr. Coleman  
16 again in his office, and showed him what I believe  
17 was his misimpression that Jim Guy Tucker had  
18 actually put himself in front of Capital Management  
19 on South Loop when, in fact, he had not. What had  
20 occurred was that there was a clerical error when  
21 they filed the deed, they did not have the property  
22 description so he had to rerecord. So it made it

1 look like the transaction was more, in my view,  
2 dubious than what had actually occurred.

3 Really there was just a typo and they had  
4 not provided the property description, so they had to  
5 rerecord and this is with respect to the South Loop  
6 Construction loan; not Castle.

7 Q Was there any further discussion about any  
8 of the other entities at that second meeting?

9 A Yes. I pursued with Mr. Coleman the fact  
10 that I believed that Mr. Hale must have still had  
11 additional documents, which was an ongoing discussion  
12 I might add, because I did not think that Mr. Hale  
13 had turned everything over to us.

14 I asked Mr. Coleman for his cooperation and  
15 his help. Mr. Coleman advised me that he was not  
16 willing to do that at that time, and that he was --  
17 Mr. Hale was under indictment, and that he wanted to  
18 help us, but that he couldn't under the  
19 circumstances.

20 And you know, it was that back and forth,  
21 with me browbeating him trying to get documents, and  
22 him standing fast saying his client wasn't prepared

1 to discuss anything at that time because he was under  
2 indictment.

3 Q Now, you needed documents so that you could  
4 administer this receivership, I take it?

5 A We needed documents and we needed  
6 information. The materials that we had in David  
7 Hale's files were incomplete; they were convoluted;  
8 you couldn't figure out what was coming or going. We  
9 had obtained materials from his bookkeeper. We  
10 couldn't figure out what payments were made. We were  
11 trying to still unravel the swaps. We were still  
12 trying to unravel the hospital receivables. We had  
13 contacted the hospital that they claimed the hospital  
14 receivables were from, somewhere in California, and  
15 obtained an affidavit from the person in California  
16 saying that indeed they had never talked to David  
17 Hale or anybody else and never sold any of their  
18 hospital receivables.

19 All that kind of investigation was ongoing,  
20 you know, September, October, you know, November, all  
21 those kinds of discussions were ongoing.

22 Q Now, as of October 14, 1993, you have now

1 had a conversation with Hale and/or his attorney, and  
2 you've receive some other information that you've  
3 just described. Were you briefing your superiors  
4 with respect to this information, the statements of  
5 Hale and/or his attorney, and the other information  
6 you had received?

7 A Yes, sir.

8 Q On a regular basis?

9 A Yes, I will say on a regular basis; I mean  
10 once a week maybe.

11 Q Was that in the form of an oral updates, or  
12 memoranda --

13 A All oral.

14 Q All oral?

15 A At the time, and you have to look back  
16 where we were in time, in September and October of  
17 1993, we didn't know what we had with David Hale.  
18 David Hale was going public and making acquisition  
19 conversations, and talking about everything. But we  
20 didn't know from looking at the documents and without  
21 David Hale, we were not able to decipher what exactly  
22 was there, what was true, what was false, whatever.

1           So basically we were going through the  
2 steps, trying to tear it apart. And then we started  
3 to interview the borrowers, and then we started to go  
4 through and interview each and every borrower.

5           Q   Those would be the borrowers that are  
6 listed, for instance, in your notes of 10/14/93?

7           A   We did those and we did everybody else that  
8 we could find. We did almost, I think, to the best  
9 of my knowledge, I think we got them all, every one  
10 of them.

11          Q   Now, the superior you were reporting to at  
12 that point was Mr. Teckler?

13          A   Mr. Teckler, and I also provided periodic  
14 reports to Mr. Spotilia.

15          Q   Was Mr. Spotilia made aware of your  
16 conversations with David Hale and/or his attorney?

17          A   Yes, sir.

18          Q   Would that have been around October 14th of  
19 1993?

20          A   It would have been shortly thereafter, when  
21 I would have returned.

22          Q   Same with Mr. Teckler?

1           A   Yes.

2           Q   Do you know whether or not they in turn  
3 briefed anybody else with respect to this  
4 information?

5           A   I do not know that.

6           MR. GICALE: Let's mark these two items as  
7 exhibits.

8                   (Stephens Exhibits 6 and 7 identified.)

9           BY MR. GICALE:

10          Q   Showing you what's marked for  
11 identification as Stephens Exhibit Number 6, is this  
12 another copy of your notes?

13          A   Yes, it is.

14          Q   And what's the date of those notes?

15          A   10/18/93.

16          Q   And the MKS is you?

17          A   MKS is me.

18          Q   Are these just notes to yourself with  
19 respect to some issues and things that need to be  
20 done with respect to the case at this point in time?

21          A   Yes, this looks like notes to myself, on  
22 what I should be doing.

1 Q Now, at this point in time, you have some  
2 concerns with respect to Dean Paul Limited; correct?

3 A That's correct.

4 Q With respect to the Steve Smith  
5 transaction; is that correct, item number 8?

6 A Yes, sir.

7 Q L. Randolph, item number 8-3?

8 A That says "write demand letter to  
9 Randolph," R.D. Randolph, that's the President of  
10 Castle.

11 Q Castle Sewer & Water?

12 A Yes.

13 Q That would be item 8-3 on your notes. You  
14 had some concerns, and I am referring to number 13,  
15 as to whether or not Madison guaranteed the fees on  
16 the hookups; is that correct?

17 A Yes, sir.

18 Q And you also had some concerns with respect  
19 to perhaps suing R.D. Randolph?

20 A Yes, sir, because we had a personal  
21 guarantee from him.

22 Q On the \$150,000 that went toward the

1 purchase price of Castle Sewer & Water?

2 A Yes, we did.

3 Q Then you had concern with Larry Kuca?

4 A Kuca.

5 Q Who was that?

6 A Campobello Realty.

7 Q That was also an item you discussed with  
8 either Hale or Coleman on October 14, 1993; correct?

9 A I believe we did, yes, sir.

10 Q Do you know whether it was with Hale or  
11 Coleman?

12 A Why, I can't remember if it was with Hale  
13 or Coleman, to tell you the truth.

14 Q Showing you what's marked for  
15 identification is Exhibit Number 7, is this a copy of  
16 your notes again?

17 A Yes, they are.

18 Q For October 25?

19 A Yes, sir.

20 Q Is this with regard to another meeting with  
21 Randy Coleman?

22 A This is referring to a phone conversation I



1 had with Randy Coleman on October 25th.

2 Q What was the substance of that phone  
3 conversation?

4 A Mr. Coleman had advised me that he had met  
5 with Mike Johnson who was the head of the criminal  
6 division that he was dealing at a level above  
7 Fletcher Jackson at that point.

8 And that, from my notes, it looks like I  
9 was reflecting that they offered Mr. Coleman, and --  
10 Mr. Hale a plea bargain, but that Mr. Coleman had  
11 rejected it.

12 Q Where you say they through a deal that was  
13 rejected?

14 A That was rejected by Coleman, yes, sir.  
15 And Coleman then said to me, Mark, do you want to get  
16 involved and try to talk to Mike Johnson or talk to  
17 the people in U.S. Attorney's Office in order to get  
18 a -- to help with the plea bargain. He said David  
19 can help you on the recoveries and David can help you  
20 figure out what Tom Anderson did.

21 Tom Anderson was the person who donated the  
22 \$13 million of hospital receivables. That's where I

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1 say Coleman is offering Tom Anderson.

2 Q Now, were you -- in your notes where you  
3 say he is trying to get AUSA to get it --

4 A Moving. He was trying to get a plea  
5 bargain together, Coleman was. And Coleman was  
6 trying to get me to place a call to them to say we  
7 think this is a good idea, would you consider the  
8 plea bargain.

9 Q You also have some notes there with respect  
10 to Paula Casey. Was she also discussed?

11 A Yes, Coleman told me that Paula Casey had  
12 come from Senator Bumpers's D.C. staff and her  
13 husband was a long-time Clinton/Tucker appointee or  
14 something along those lines, and that he was  
15 concerned about her, whether she should recuse  
16 herself.

17 Q Was there any other discussion with  
18 Mr. Coleman on this day? The reference to R.D.  
19 Randolph, what was that about?

20 A I think I had gone back -- periodically I  
21 would try to get information from Mr. Coleman and I  
22 would ask him questions. And I think what this is

1 reflecting, he told me that R.D. at one point had  
2 worked at Madison or done work for Madison, because I  
3 was trying to find out what R.D. Randolph's  
4 relationship was to Castle Water & Sewer.

5 MR. GICALE: Please mark these three  
6 documents as the next three exhibits, 8, 9, 10.

7 (Stephens Exhibits 8, 9, and 10  
8 identified.)

9 (Recess.)

10 BY MR. GICALE:

11 Q Showing you what's marked for  
12 identification -- is this another copy of your notes?

13 A Yes, sir.

14 Q What is the date of these notes?

15 A October 26, 1993.

16 Q And what occurred on that date?

17 A This represents notes of a telephone  
18 conversation I had with Fletcher Jackson regarding  
19 various and sundry matters.

20 Q What was the sum and substance of that  
21 conversation?

22 A Fletcher advised me that they were starting

1 to get checks on Master Marketing. He said that he  
2 was getting a query from the Wall Street Journal. We  
3 talked about Grassby, South Loop, Tucker. The trial  
4 was scheduled for David Hale on February 28th, and he  
5 was going to come out with a second indictment on  
6 November 2. I mean there is more on the paper.

7 Q These are notes and these reflect your  
8 conversation with him on that date?

9 A Yes.

10 Q I am showing you the next item marked for  
11 identification as Stephens Exhibit Number 9. Can you  
12 identify that?

13 A Yes, this also reflects a telephone  
14 conversation I had with Fletcher Jackson on October  
15 31.

16 Q '93?

17 A Of '93. Looks like we are discussing again  
18 the checks on Master Marketing, and various and  
19 sundry other things, about the indictment, Larry Kuca  
20 and the indictment. And it covers a number of  
21 topics.

22 Q Does that accurately reflect your

1 conversations with him on that date, at that time?

2 A Yes.

3 Q I am going to show you what's marked for  
4 identification as Stephens Exhibit Number 10.

5 A Yes, sir. This is notes of my telephone  
6 conversation with Fletcher Jackson on November 1 of  
7 1993.

8 Q And does that accurately reflect your  
9 conversation with Mr. Jackson on that date?

10 A Yes, sir.

11 Q That's a little more limited than the other  
12 set of notes?

13 A Yes, sir. Yes, these are just -- looks  
14 like again a quick discussion I had with him on  
15 various matters.

16 Q You discussed Karen Carmichael. Do you  
17 know what you discussed about her?

18 A At this point in time, in November of 1993,  
19 there was a lot of media interest in Capital  
20 Management and David Hale. And I think he had made  
21 some allegations in the paper regarding Castle. And  
22 information was starting to come out about the RTC

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1 and I asked Fletcher who at the RTC could I contact  
2 about Castle Sewer & Water, because they, RTC, had  
3 obtained an environmental study on Castle Water &  
4 Sewer, because RTC, as the successor to Madison, was  
5 holding the note on the Castle property.

6 And I asked Fletcher who he was dealing  
7 with at RTC and he gave me the name of Karen  
8 Carmichael.

9 Q You have a reference there, "no loans to  
10 Vince Foster"?

11 A Yes, that the point in time, Fletcher  
12 advised me that he was getting some inquiries from  
13 the Wall Street Journal, trying to tie Vincent  
14 Foster's death into Whitewater and Capital  
15 Management. And I asked the question, I said, well,  
16 do you have any evidence that Vince Foster got a loan  
17 from Capital Management and he advised me no.

18 Q Now, at this juncture, were you following  
19 up on information with respect to Master Marketing,  
20 Castle Grande, and Tucker?

21 A On Castle and Tucker, yes. And in fact, I  
22 had contacted Mr. Tucker's attorney, Mr. Haley, and

1 we were trying to obtain some information from him.  
2 I think it was shortly after November 1 that I went  
3 back to Little Rock, and I actually had a meeting  
4 with Mr. Haley, to discuss Castle and South Loop.

5 I wasn't doing a whole lot on Master  
6 Marketing at the time because I couldn't tell what  
7 Master Marketing was about. The way the file read  
8 there was a loan to Master Marketing, there was a  
9 default. Hale did actually sue Mrs. McDougal and  
10 obtained a judgment against her. So if you look at  
11 the file, it just looked like you had a judgment.

12 So the one thing we did was that we made  
13 arrangements to have a meeting with Tommy Cole, who  
14 was the head of Cole Masonry, to find out what he was  
15 doing on the judgment, to collect on the judgment and  
16 to find out what was the circumstances of him getting  
17 the judgment of Master Marketing over to Cole  
18 Masonry. And we were working those issues.

19 Q What information did you have with respect  
20 to Castle Grande and Mr. Tucker at that point?

21 A At that point in time, most of the  
22 information we had was confusing and complex and

1 convoluted. I couldn't figure out what was the deal  
2 on Castle Water & Sewer and we made arrangements to  
3 meet with Mr. Haley who was representing Mr. Tucker,  
4 to try and understand the transactions regarding  
5 Castle and South Loop.

6 Q Go ahead.

7 A When I am referring to Castle, I am  
8 referring to Castle Sewer & Water company, and that  
9 was an investment of Capital Management.

10 I think there may be some property named  
11 Castle Grande and I have always been confused as to  
12 whether there's two different pieces or whatever but  
13 my reference is to the investment Capital Management  
14 made in Castle Water & Sewer.

15 Q Castle Sewer & Water?

16 A Yes, sir.

17 Q So at this stage, by November 1st, 1993,  
18 you were having discussions with Mr. Tucker's  
19 attorney with respect to Castle Sewer & Water, and  
20 you were still attempting to obtain information about  
21 those -- about that transaction or those  
22 transactions; is that correct?



1 A Yes. I believe it was sometime after  
2 November. It was in that November, December period  
3 that we had those discussions with Mr. Haley.

4 Q Now, at this juncture, are you continuing  
5 to brief your supervisors, Mr. Teckler and  
6 Mr. Spotilia, with respect to the information --

7 A Yes.

8 Q -- you have been receiving and the  
9 information you have been obtaining?

10 A Yes, sir.

11 Q With respect to Master Marketing and the  
12 information you have with respect to Castle Sewer &  
13 Water?

14 A The only hesitation I have is in your  
15 question you keep referring to Master Marketing, and  
16 I can't say that I was focusing on Master Marketing.

17 At that point in time, our focus was more  
18 Castle and South Loop, because David Hale in his  
19 public pronouncements or media comments was focusing  
20 more on the relationship -- than Governor Tucker I  
21 wanted to make sure, clear for the record. The focus  
22 wasn't on Master Marketing that I can recall other

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1 than my passive notes in here.

2 Q And the information with respect to -- the  
3 allegations that Mr. Hale had made publicly with  
4 respect to Governor Tucker, I presume you had some  
5 discussion with your superiors about that,  
6 Mr. Teckler and Mr. Spotilia, about that and the  
7 direction your investigation was taking?

8 A Yes, I advised them in the ordinary course,  
9 yes, sir.

10 Q Now, do you know, once again, whether they  
11 were briefing anyone above them?

12 A I don't know that for certain, no.

13 Q Now, by this time, Mr. Foren was no longer  
14 in the position -- strike that.

15 Do you know whether or not they were  
16 briefing Mr. Bowles, Mr. Spotilia and Mr. Teckler  
17 were briefing Mr. Bowles, with respect to this  
18 information?

19 A I don't know that for a fact.

20 Q Now the notes that you were keeping, were  
21 you giving them copies of your notes or again were  
22 these briefings just oral?

1 A Just oral.

2 Q There came a time in November of 1993, when  
3 the Small Business Administration received a request  
4 from Congressman LaFalce, requesting information with  
5 respect to abuses of the SBIC program?

6 A That's correct.

7 Q And did you get involved in responding to  
8 that request?

9 A Yes, I did.

10 MR. GICALE: Can we go off the record real  
11 quickly.

12 (Discussion off the record.)

13 BY MR. GICALE:

14 Q You did get involved in responding to this  
15 request?

16 A Yes, sir.

17 Q What was your role in responding to that  
18 request?

19 A Preparing the documents, and the exhibits,  
20 to be transmitted to the House Small Business  
21 Committee.

22 Q Now, you eventually submitted a response to

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1 Congressman LaFalce on November 15, 1993; correct?

2 A That is correct.

3 Q Prior --

4 MR. GICALE: Mark these for  
5 identification.

6 (Stephens Exhibits 11, 12, and 13  
7 identified.)

8 BY MR. GICALE:

9 Q Now showing what is marked for  
10 identification as Stephens Exhibit 11, can you  
11 identify that for us?

12 A Yes. This reflects notes of a meeting that  
13 we had in Little Rock on November the 8th, 1993, with  
14 David Reign of the FBI, Gretchen Hall of the FBI,  
15 Helen Mincer and Cecilia Seay and myself.

16 Q In that meeting you discussed Master  
17 Marketing, I assume from looking at the notes?

18 A Yes, sir.

19 Q And Dean Paul Limited; I'm sorry, Dean  
20 Paul, item number 7?

21 A Yes.

22 Q And item number 8, Cole Masonry; correct?

1 A Yes, sir.

2 Q What was the purpose of that meeting?

3 A We were still trying to obtain information,  
4 and the FBI was still resisting giving us that  
5 information because of the grand jury. I told them  
6 that I thought about making a formal referral on  
7 Masters Marketing, but I also thought it was  
8 redundant in light of the fact that I knew that it  
9 was under investigation, that's what the notation  
10 that I made at the top says, make a formal referral.  
11 I was debating whether to make a formal referral or  
12 whether that was considered as part of the material.

13 I was also trying to make the record to ask  
14 for information on these other matters, Sunbelt, Dean  
15 Paul, Property Care, Richard Grassby. At the bottom,  
16 where it says MKS informed, what I was telling them  
17 is that I had talked to Bill Watt who represented  
18 Grassby, Dean Paul, Rutherford, Danny Trawler, and  
19 R.D. Randolph. And we began cross-sorting receipts  
20 and disbursements to try to find out where the money  
21 went and we were going to talk to John Haley.

22 Q I am going to show you what's marked for

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1 identification as Exhibit Number 12. Is this another  
2 copy of a set of your notes this time for November 9,  
3 1993?

4 A Yes, sir. This reflects the notes I took  
5 at the meeting with Dean Paul and his attorney,  
6 Michael Fitzhugh, in Little Rock.

7 Q And I take it that at this meeting you had  
8 an opportunity to interview Mr. Paul?

9 A That is correct, we met at the SBA district  
10 office in Little Rock and we interviewed Dean Paul  
11 regarding the loan made to the Dean Paul Company and  
12 asked Dean Paul various and sundry questions about  
13 his relationship with Capital Management and David  
14 Hale.

15 Q And what information did Dean Paul give you  
16 with respect to David Hale, and Capital Management?

17 A Mr. Paul advised us that he participated in  
18 a transaction, back in the early '80s, like around  
19 1986, whereupon Mr. Hale gave Mr. Paul a loan for  
20 \$200,000. In exchange, Dean Paul assigned Dean  
21 Paul's interest in the building located at 1910 North  
22 Grant Street which housed Capital Management, and

1 that Hale had to run this entire transaction.

2 In order to throw the SBA off, Hale had to  
3 dummy the file up, and so he made it look like Dean  
4 Paul got a loan for 200,000 but he told Dean that he  
5 did not have to repay the money, that Hale, once he  
6 got control of the building, he would take the  
7 receipts off of the building and make the payments on  
8 the loan, on the Paul sales loan so it would look  
9 like the loan was going to come current.

10 And you will see there is a notation about  
11 Mark Roberts in here. Well, Mr. Paul didn't trust  
12 Mr. Hale at the time, and said, well I want a  
13 notation to that effect, that you are going to make  
14 these payments, and that's the only way that he would  
15 give up his interest in the building located at 1910  
16 North Grant Street.

17 Q Did Mr. Paul discuss any other transactions  
18 from 1986?

19 A We were inquiring of Mr. Paul about any  
20 other matters that he might have had with Mr. Hale,  
21 and he referred to us the Yell Forestry that he was  
22 involved with that loan, involving -- they called it

1 Yell Forestry and Plainview Lumber. And we  
2 specifically inquired if he was involved in anything  
3 else, which he said no. I have come to learn  
4 otherwise.

5 Q And the otherwise is the \$800,000 loan  
6 where some of the proceeds went to Master Marketing;  
7 is that correct?

8 A That is correct.

9 Q But you did not learn of that in this  
10 period?

11 A I did not. That came to my attention many,  
12 many months later.

13 Q And then I am going to show you what's  
14 marked for identification as Exhibit Number 13. Is  
15 this another set of your notes only this time dated  
16 November 15, 1993?

17 A Yes, sir.

18 Q Does this reflect your notes of a  
19 conversation with Mr. Mackay?

20 A Yes, it is.

21 Q And at that point in time, did you discuss  
22 with Mr. Mackay the Dean Paul matter?



1       A    Yes, I did. I was trying to obtain  
2 information from Mr. Mackay -- I had learned through  
3 a conversation with Mr. Jackson, that -- that he had  
4 given Dean Paul immunity, and I wanted Dean Paul's  
5 cooperation. If Dean Paul got immunity, I wanted  
6 cooperation to try and figure out the various and  
7 sundry loans and so forth because I was concerned  
8 about the 1910 North Grant Street transaction.

9       Q    And you were asking Mr. Mackay for some  
10 assistance in talking to Dean Paul; is that it?

11       A    You see, Don will talk to Fitzhugh, that  
12 refers to Dean Paul's attorney, Michael Fitzhugh.

13       Q    Now, how was that conversation left --  
14 strike that.

15            You requested this of Mr. Mackay, and what  
16 was his response?

17       A    According to this, Don will talk to  
18 Fitzhugh, meaning Mackay was going to talk to  
19 Fitzhugh which was Dean Paul's lawyer. In my  
20 conversations with Mackay, he wasn't sure of the  
21 extent of whatever Fletcher Jackson had done with  
22 Dean Paul. And he was revisiting that issue. And it

1 indicates he will call me back on Monday.

2       Q    All right, now on November 15, 1993, the  
3 Small Business Administration, in a letter to  
4 Mr. LaFalce, dated November 15, from Erskine Bowles,  
5 responds to Mr. LaFalce's request. Could you mark  
6 this for identification.

7            (Stephens Exhibit 14 identified.)

8            BY MR. GICALE:

9       Q    I am going to show you what's marked for  
10 identification as Stephens Exhibit 14. Can you  
11 identify that for us, please?

12       A    Yes, this is a letter signed by  
13 Administrator Bowles, transmitting information to  
14 Chairman LaFalce, as requested by Chairman LaFalce on  
15 November the 4th.

16       Q    Now, in that letter -- I am directing your  
17 attention to the third page of that letter -- it says  
18 "I am attaching further information relating to  
19 Capital Management." Do you see that notation --

20       A    Yes.

21       Q    -- in the last paragraph --

22       A    Yes.

1 Q -- on the third page?

2 A Yes.

3 Q Were there, in addition to the substance of  
4 this letter, were there attachments that were  
5 conveyed to Mr. LaFalce?

6 A Yes, there were very detailed attachments.

7 Q Now, are those the attachments you referred  
8 to earlier today, that you did not supply the  
9 committee?

10 A Yes, sir.

11 Q Okay, and that you've indicated that you  
12 will supply the committee?

13 A Happily.

14 Q Now, you've also indicated -- strike that.  
15 Now, you assisted in the preparation of  
16 this letter and the exhibits?

17 A Yes, I did.

18 Q Did you talk to Mr. Bowles about this  
19 before the letter was written?

20 A I did not talk to Mr. Bowles.

21 Q Who did you brief on this so that this  
22 letter could be prepared?

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1 A There was no briefing that I did. What  
2 happened is we received a letter, an incoming letter  
3 from Chairman LaFalce, dated, I believe, like  
4 November the 4th, requesting that this information be  
5 provided. And I was given the responsibility to  
6 prepare the report, and there were ongoing  
7 discussions with myself and Mr. Teckler.

8 There were a couple of specific inquiries  
9 that came back from, I believe, Mr. Powers, who was  
10 Chairman LaFalce's person, saying that they wanted  
11 specific items addressed; for example, they wanted  
12 all the examination reports, the leverage materials,  
13 you know, when they got leverage and so forth.

14 Q Now, I am going to show you Bates number  
15 002890. Is this -- this is another copy of this  
16 letter dated November 15, 1993 to John LaFalce from  
17 Erskine Bowles; correct?

18 A Yes, sir.

19 Q And attached -- and the letter is Bates  
20 number 2890 through 2893. And attached to it is  
21 document 28894, which is a list of attachments?

22 A Yes, sir.

1 Q Is this the list of attachments that you  
2 have been referring to?

3 A Yes, sir.

4 Q And this is a list, 1 through 12,  
5 describing the attach --

6 A The information that's in the attachments,  
7 yes, sir.

8 Q The attachments that you will provide to  
9 us?

10 A Yes.

11 Q Now, was there any other information that  
12 you provided to Congressman LaFalce at that time?

13 A Not at that time. There was supplemental  
14 information that we provided to him over the course  
15 of the next few months.

16 Q Now, did you provide him, at this point in  
17 time -- strike that.

18 Was it about this point in time when you  
19 received a request from the White House for  
20 information?

21 A I never received a request for information  
22 from the White House. Me personally.

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1 Q Somebody in your agency received a request  
2 from the White House for information?

3 A That's correct.

4 Q Who received that request?

5 A I don't know specifically who received the  
6 initial request. I don't know who specifically  
7 received that request.

8 Q Who told that you there was a request?

9 A Mr. Spotilia did.

10 Q Did Mr. Spotilia tell you that the White  
11 House had requested him to obtain the information, or  
12 had Mr. -- did Mr. Spotilia indicate that he had  
13 received the request from someone else at the Small  
14 Business Administration?

15 A Mr. Spotilia advised me that a call had  
16 come in from the White House, asking for a copy of  
17 the report that was given to Chairman LaFalce.

18 And Mr. Spotilia provided that information  
19 to White House counsel, Neil Eggleston.

20 Q Now, did he indicate that Mr. Eggleston had  
21 called the Small Business Administration requesting  
22 this information?

1 A I believe he did, yes.

2 Q Did he indicate who Mr. Eggleston had  
3 called at the Small Business Administration?

4 A I don't believe he indicated to me who  
5 Mr. Eggleston called. I know the call went in to,  
6 like, the administrator's office, because there was  
7 an article in the paper that LaFalce had said he  
8 wanted a report and the report was due on November  
9 the 15th. And it was after we had submitted that  
10 report that he got a call asking for a copy of the  
11 report from Mr. Eggleston.

12 Q That who got a call?

13 A Somebody in the front office got a call.

14 Q The administrators's office?

15 A The administrator's office.

16 Q Mr. Bowles's office?

17 A Either there or CLA, which is Congressional  
18 and legislative affairs. Someone in the front office  
19 got a call, they referred the call back to  
20 Mr. Spotilia because our office had been responsible  
21 for preparing the report for Mr. LaFalce, so they  
22 referred it back to Mr. Spotilia.

1 Q Again, when you were preparing this  
2 response, did you draft the letter?

3 A Yes, I did.

4 Q Did you brief Mr. Spotilia and/or anyone  
5 else about the other information that you had with  
6 respect to your investigation, or summarize it?

7 A Yes, I mean we talked about it. You know,  
8 in the ordinary course, yes.

9 Q Okay. Now, at this juncture, you had  
10 information from Mr. Coleman and/or Mr. Hale with  
11 respect to a number of transactions regarding Castle  
12 Sewer & Water -- some information with respect to --  
13 from them with respect to Mr. Tucker, some  
14 information with respect to Mr. Smith, I believe,  
15 from them; you had some information with respect to  
16 Master Marketing from them; is that correct?

17 A That's correct.

18 Q Did you discuss this information -- the sum  
19 of this information at this point with Mr. Spotilia?

20 A At times, yes.

21 Q Okay, at the point in time when you were  
22 trying to respond to Congressman LaFalce, were you



1 discussing the status of the information that you had  
2 accumulated for your agency at that point?

3 A No. At that point in time, we were trying  
4 to prepare the response to Congressman LaFalce which  
5 was more, you know -- my understanding was Chairman  
6 LaFalce wanted a report which was all the  
7 documentation behind Capital Management, what did the  
8 agency have; and that's what we were focusing on,  
9 what did the chairman want.

10 Q Well, can you distinguish that for us? I  
11 mean was this information from the records that  
12 Mr. Hale had, or was this information related to your  
13 investigation that you were supplying?

14 A This information (indicating).

15 Q When you say "this"?

16 A The information that was provided to  
17 Chairman LaFalce was the SBA records, which was the  
18 SBA's oversight of Capital Management which included  
19 their examination reports, their leverage  
20 applications, what's listed on these 12 attachments.

21 Q Okay. And you are looking again at Bates  
22 number 2894?

1 A Yes, sir. And these are documents that  
2 came from the agency's official records and files  
3 here in Washington, in its monitoring and operation  
4 of Capital Management. This information did not come  
5 from the Capital Management records, which we had  
6 picked up and given to the FBI. This information all  
7 pertains to SBA's oversight of Capital Management  
8 here in Washington.

9 Q Now, that was information that was  
10 available to the public?

11 A No, sir.

12 Q What were the rules or restrictions with  
13 respect to this information?

14 A This information was information which  
15 contained what we called the operations files. It  
16 had the leverage request files, it had correspondence  
17 back and forth between Capital Management and the  
18 agency; anything concerning SBA's oversight of  
19 Capital Management was contained in those files.

20 Q And again, it was not information that  
21 was -- that the public would have access to; is that  
22 correct?

1 A That's correct.

2 Q Was this information subject to any privacy  
3 concerns, Privacy Act concerns?

4 A Yes, sir.

5 Q Now, did you make a determination as to --  
6 strike that.

7 So you viewed this request, then, just as a  
8 request for the existing information in SBA files, at  
9 that point in time, and -- in Washington, not the  
10 information you had picked up subsequently?

11 A That's correct. What Chairman LaFalce  
12 asked -- I can't remember his specific letter but I  
13 mean, as I recall, his November 4th letter indicated  
14 he wanted a report on Capital Management, and he only  
15 gave us 11 days to produce it. And there were  
16 certain things he wanted; the examination reports,  
17 the 1031s, a copy of the indictment.

18 There was a -- that's where this laundry  
19 list of information came from. That's what he  
20 wanted, and that's what we gave him.

21 Q Did you discuss the appropriateness  
22 about -- of who should receive that information, the

1 attachments? There came a point in time when the  
2 White House requested this information; did you  
3 discuss whether or not it was appropriate for them to  
4 receive it?

5 A No, sir. Not at the time of the White  
6 House request, no, sir.

7 Q Since it was subject to privacy concerns,  
8 did you believe that it was appropriate for the White  
9 House to obtain a copy of this information?

10 A I personally never opined. We were  
11 looking -- at the time we made this transmission to  
12 Chairman LaFalce, we did not have a request from the  
13 White House. We were more concerned about when it  
14 went to the Small Business Committee whether it would  
15 be disseminated publicly. There wasn't an issue of  
16 whether or not -- if we gave it to White House,  
17 whether that was a Privacy Act issue.

18 Q Were you concerned about it being  
19 disseminated publicly when it went to the Small  
20 Business Committee?

21 A Yes, sir.

22 Q What steps did you take, if any, with

1 respect to attempting to restrict that?

2 A We put a legend at the top of the page,  
3 which is marked --

4 Q Exhibit 14?

5 A -- Exhibit 14, which is our standard legend  
6 which is one paragraph. I can read it into the  
7 record if you like. It speaks for itself.

8 Q Well, all right. It states that "the  
9 information contained herein has been determined to  
10 be confidential in nature and therefore not  
11 releaseable to unauthorized parties"; correct?

12 A Yes.

13 Q And "disclosure of this information may  
14 violate federal law, e.g., Privacy Act of 1974, the  
15 Right to Financial Privacy Act of 1978 and 18 USC  
16 section 1905"; correct?

17 A That's correct.

18 Q "Utmost discretion should be exercised";  
19 correct?

20 A That is correct.

21 Q Now, you believe that, by listing that  
22 notice, that satisfied your agency's obligations with

1 respect to restricting disclosure to people other  
2 than the committee; is that correct?

3 A That is our standard language that we use  
4 in our standard operating procedures when we transmit  
5 things.

6 Q To Congress?

7 A Yes, sir.

8 Q Now, when you -- how can -- after you  
9 submitted this to Congress, did you get this request  
10 to transmit the information that you transferred to  
11 Congress from LaFalce to the White House?

12 A I did not get a request. I want the record  
13 to be clear, I did not get a request from the White  
14 House.

15 Q Your agency.

16 A The agency got a request. Mr. Spotilia  
17 called me in a few days after this to advise me that  
18 a copy of the LaFalce report had been given to the  
19 White House, and he wanted to know if there was  
20 anybody at the Department of Justice that he could  
21 check with in order to determine whether it was  
22 appropriate to give information to the White House.

1 He wanted to make sure of that.

2 Q So by the time you were notified, it had  
3 occurred?

4 A That's correct. It had already occurred.

5 Q The White House had asked your agency for  
6 the information?

7 A And Mr. Spotilia had provided it to  
8 Mr. Eggleston.

9 Q Spotilia provided it to Eggleston directly?

10 A Yes, sir.

11 Q And after doing so, he was asking you  
12 whether or not you had the name of someone who could  
13 determine whether or not it was appropriate to do  
14 this?

15 A Yes. They wanted to make sure that if  
16 anything was transmitted to the White House, that it  
17 was with the Department of Justice approval, or at  
18 least that Justice knew about it. And Mr. Spotilia  
19 asked me if I knew anybody at Justice I could ask  
20 about giving information to the White House.

21 Q Now, did he tell you why they had turned  
22 the information over to the White House first and

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1 then talked about whether or not it should be done  
2 second?

3 A No. He just said that he had provided a  
4 copy to the White House, and that on reflection, they  
5 wanted to make sure that Justice was aware of it  
6 because of the ongoing investigation, and he wanted  
7 to make sure that it was appropriate.

8 Q Were there any concerns with respect to the  
9 Privacy Act or the Right to Financial Privacy Act or  
10 section 1905 expressed?

11 A No. Not directly at that time, no.

12 Q Did you give him the name of someone he  
13 could contact at Justice or --

14 A No. What happened was that -- the day that  
15 Mr. Spotilia had called me in to tell me he needed  
16 the name of somebody at Justice, I had received a  
17 call from Dwight Bostwick. Mr. Bostwick was working  
18 with Mr. Mackay. At this point in time, Fletcher  
19 Jackson had been replaced by Mackay, Bostwick, and  
20 Jim Nixon.

21 Dwight Bostwick had just called me right  
22 before Mr. Spotilia called me to his office and said



1 Mark, I am Dwight Bostwick. Allen Carver, who is the  
2 head of our operation at Justice, saw in the paper  
3 that he would like -- that you were providing a  
4 report to the chairman of the Small Business  
5 Committee, and wanted to know if he could have a copy  
6 of that report.

7 So I had received a call from Mr. Bostwick  
8 that morning, and I had not called Mr. Carver yet.  
9 When I was called into Mr. Spotilia's office,  
10 Mr. Spotilia said do you have somebody at Justice  
11 that we can talk to and advise us about providing  
12 information to the White House. I said that I did.  
13 I had Mr. Carver's name and phone number.

14 Q So you gave Mr. Carver's name to  
15 Mr. Spotilia?

16 A No, I didn't. I advised Mr. Spotilia I was  
17 a career employee and I thought if there was to be  
18 any contacts regarding anything that I should make  
19 the phone call and that he should stay out of it.  
20 And he agreed.

21 Q Why did you express that concern at that  
22 point?

1 A At this point, the media was pouncing  
2 around. I mean I wasn't sure where this whole  
3 investigation or where this whole matter was going to  
4 go.

5 Mr. Spotilia was new to the government, he  
6 had only been general counsel for about two months.  
7 And he expressed concerns to me about whether it was  
8 appropriate, and I said, frankly, look, I'll make --  
9 I should do it, I am the one who is handling the case  
10 I will make the phone call and I will ask him.

11 And so I called Mr. Carver and he said make  
12 sure Mr. -- Mr. Spotilia advised me to make sure I  
13 found out from Mr. Carver whether or not we were  
14 allowed to transmit anything to the White House and  
15 to advise him we had given it to him, and to make  
16 sure, if Mr. Carver wanted a copy, that I  
17 hand-delivered it and gave it to Mr. Carver  
18 personally. And Mr. Carver wanted a copy of the  
19 report.

20 Q All right. And to be clear, what was it  
21 that Mr. Spotilia had provided Mr. Eggleston at the  
22 White House?

1 A He had provided him the 12 attachments that  
2 are referred to in the letter from Mr. LaFalce.

3 Q And those are the attachments listed on  
4 Bates number 2894; correct?

5 A That's correct.

6 Q Along with a copy of the letter?

7 A Along with a copy of the LaFalce letter,  
8 yes.

9 Q And did you provide Mr. Carver with a copy  
10 of the letter and the attachments as well?

11 A Yes, I did.

12 Q And when you spoke to Mr. Carver and told  
13 him about your conversation with Mr. Spotilia, what  
14 did Mr. Carver say about the turning over of  
15 documents to the White House?

16 A I called Mr. Carver on the telephone, the  
17 day that Mr. Spotilia told me to call Mr. Carver.  
18 Mr. Carver said --

19 Q Do you know that date?

20 A I should have it right here. November the  
21 17th.

22 Q And then what happened when you discussed

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1 this with Mr. Carver?

2 A Mr. Carver -- I set up a meeting where I  
3 would bring over to him a copy of the LaFalce report  
4 and attachments. And he said he would think about  
5 the issue of providing information.

6 MR. IVEY: You want to put that in the  
7 record?

8 MR. GICALE: Yes, we can mark this as an  
9 exhibit.

10 (Stephens Exhibit 15 identified.)

11 BY MR. GICALE:

12 Q I am showing you what's marked for  
13 identification as Stephens Exhibit Number 15. Is  
14 this a copy of your notes for November 17, 1993?

15 A Yes, sir.

16 Q Now, is that where you had a conversation  
17 with Mr. Bostwick and Mr. Carver with respect to  
18 Mr. Eggleston's request for documents?

19 A What the first page of these notes reflect  
20 are a couple of different things. It refers to  
21 Dwight Bostwick calling me and saying he was working  
22 with Jim Nixon, and here are their phone numbers.

1 And he asked me to give the information to  
2 Mr. Carver, and I asked what the -- you know, where  
3 was he and what was his title.

4 Q Then the second page, there was some  
5 discussion about giving the documents to the White  
6 House; correct?

7 A Right, I called -- this reflects where it  
8 says "T, Allen Carver," it reflects I called Allen  
9 Carver. He told me his eye caught the article in the  
10 paper, and Allen said he would think about the giving  
11 of the documents.

12 Q All right. And then attached to that is  
13 a -- apparently are notes for November 18 as well; is  
14 that correct?

15 A Yes, that would reflect the date I had the  
16 meeting with Mr. Carver.

17 Q And in that meeting, there was a suggestion  
18 that the SBA get the documents back; is that correct?

19 A That's correct.

20 Q Now, how did that -- can you describe the  
21 conversation -- strike that.

22 Can you summarize the conversation you had

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1 with Mr. Carver and the people at the Department of  
2 Justice on that date?

3 A Well, we discussed a number of things about  
4 Capital Management, and how SBA was a victim. I  
5 explained the SBIC program, how there would be a --  
6 you know, we thought that there were problems as far  
7 as the '88 transaction was concerned.

8 Q Who was present at the meeting?

9 A Steve Yount, who was from the financial  
10 fraud section of the SBA; Jane Erickson from the FBI;  
11 Allen Carver, and John Arterberry who was  
12 Mr. Carver's deputy; and myself, I was the person  
13 there from SBA.

14 Q So you discussed Capital Management and the  
15 program?

16 A Right.

17 Q And you discussed the 1988 transaction that  
18 Mr. Hale was indicted for; right?

19 A Right.

20 Q What else did you discuss?

21 A And we talked about Masters Marketing  
22 because at that point in time Master was in the

1 newspaper. Something had come out about Master  
2 Market in the newspapers, from Mr. Hale. And we  
3 also -- Mr. Carver instructed me to get the documents  
4 back from the White House.

5 Q Now, were you supposed to get them back, or  
6 were you supposed to have Mr. Spotilia get them back?

7 A Mr. Carver didn't say me or Spotilia. He  
8 just said get the documents back, that this was an  
9 ongoing investigation, get the documents back.

10 Q Why was he concerned about -- why did he  
11 wan you to get the documents back?

12 A I don't know what Mr. Carver's motivation  
13 was.

14 Q He did not indicate to you why he wanted  
15 them back?

16 A I don't recall at this point. I mean he  
17 just said to get them back.

18 Q And so what happened next?

19 A I returned to SBA.

20 Q Was there any other conversation on that  
21 date?

22 A Other than I walked him through the LaFalce

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1 report, I just told him what the different exhibits  
2 were. I think that I had -- I may have brought some  
3 other files and materials with me that I basically  
4 walked Mr. Carver -- you know, the FBI people were  
5 there saying this is where we were.

6 Q Did you discuss Castle Sewer & Water at the  
7 meeting?

8 A I think we did. I think both Castle and  
9 Masters might have been discussed, but at that point  
10 in time, I wasn't sure what we had there. In fact, I  
11 think I even brought Mr. Carver a copy of my Masters  
12 Marketing file, what I had at that point in time.

13 Q And did you discuss the conversations you  
14 had had with Hale and his attorney --

15 A Yes.

16 Q -- at that point in time?

17 A Yes.

18 Q And the information that they had given  
19 you, with respect to Mr. Tucker and Mr. Smith and the  
20 other individuals?

21 A No. It wasn't -- it wasn't that detailed.

22 I can't remember how long we met. But,



1 Mr. Carver's focus was more like how is SBA a victim,  
2 and what is there about the SBIC program. And it was  
3 clear that Mr. Carver didn't understand the SBIC  
4 program, so we spent a lot of time on how you get  
5 leverage, a lot of the same discussion we had earlier  
6 today.

7 Q Okay. All right, so when you -- then you  
8 concluded your conversation, went back to the SBA and  
9 then what happened?

10 A I told Mr. Spotilia that I had talked to  
11 Mr. Carver and we were to get the documents back, and  
12 Mr. Spotilia said for me to call Mr. Eggleston and  
13 ask Mr. Eggleston for the documents back, which I  
14 did.

15 Q So you talked to Mr. Eggleston yourself?

16 A Yes, I did.

17 Q And what did you say to Mr. Eggleston?

18 A I said to Mr. Eggleston that I had checked  
19 with the Department of Justice about us providing  
20 them a copy of the LaFalce report, and that I was  
21 advised by the Department of Justice that we were to  
22 get those documents back, and I requested that they

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1 be returned.

2 Q What did Mr. Eggleston say?

3 A He said he was busy at the moment, he was  
4 up on the Hill doing something else, but that he  
5 would get back to me, that, you know, he said -- you  
6 know, I want to check into this, whether or not --  
7 who is calling the shots over there or something to  
8 that effect, like who asked for this. And I said  
9 Mr. Carver. And he said fine, I will get back to  
10 you.

11 Q And when was that that you called?

12 A I would say probably either the 17th or the  
13 18th. I mean I can't -- I would imagine it would be  
14 shortly after my meeting with Mr. Carver, either the  
15 same day or the next day.

16 Q And then what's the next thing that  
17 happened with respect to the documents, with the  
18 White House?

19 A My conversation with Mr. Eggleston occurred  
20 on a Thursday, I believe, and he was supposed to get  
21 back to me on Friday. He did not. Next thing I  
22 heard, I was in my office Sunday morning, working on

1 something totally unrelated to Capital Management, I  
2 was preparing to go to Dallas on Monday, to close on  
3 a -- on another matter. And Mr. Eggleston called me  
4 and said I have the documents, I want to get them  
5 back to you.

6 And I said well, I won't be in the office  
7 Monday, I am going to Dallas but I can send somebody  
8 to pick them up or you can messenger them back over  
9 to me. He said no, I just want to get them out of  
10 here, I want to get rid of them. I would rather just  
11 return them to you now.

12 And I said fine. I said I am here at the  
13 office. And he said all right, I am on my way, I  
14 will be over there in about a half-hour or an hour.  
15 And he called me, I assume from his office, and I  
16 went downstairs, and waited for him in front of SBA.  
17 And he pulled up with his family and children on  
18 their way to church and handed me the documents  
19 back.

20 Q Now, what did he hand you? He handed you  
21 the letter and the attachments?

22 A Yes, the letter --

1 Q And the attachments?

2 A -- and the attachments, he handed them back  
3 to me.

4 Q Now, did you give him a receipt for these  
5 documents?

6 A No, I did not.

7 Q Did you inventory them?

8 A He said that he had not made a copy of  
9 anything. He said that he had only looked through  
10 them briefly and that they were all there in the  
11 order in which I had given them to him, that he had  
12 not made any copies.

13 I think he said he didn't make any copies.  
14 I am not sure about the copies. Anyhow, he gave them  
15 back to me in the three Redwells, similar to how we  
16 have them on the table. And I took them back to my  
17 office and put --

18 Q By the way, you have been referring to the  
19 documents on the table?

20 A Yes.

21 Q I have showed you some Department of  
22 Justice documents that start with Bates number 28890

1 which is the letter to Congressman LaFalce and some  
2 documents that follow in Redwells. And you've  
3 previously reviewed these and you believe these are  
4 the attachments that went along with the letter;  
5 correct?

6 A Yes, they are. I took the documents back  
7 to my office because I was getting ready to go to a  
8 closing, put them in a box under my desk and went  
9 about my work.

10 Q You didn't lock them?

11 A I locked them in my office. When I left my  
12 office that day, I locked them behind me and I left  
13 them in a box underneath my desk.

14 Q Now, when you said that you are not sure  
15 about copies, wouldn't it have -- what did Mr. Carver  
16 instruct you with respect to obtaining the documents?

17 A He told me to find out if any copies had  
18 been made, and I believe I asked Mr. Eggleston that.  
19 At this point I just can't remember whether he said  
20 he did or did not make copies.

21 Q Was it of some significance to Mr. Carver  
22 whether or not the White House retained copies of the

1 documents?

2 A I don't know what Mr. Carver's, you know,  
3 issue was.

4 Q Well, he wanted you to find out who --

5 A Right.

6 Q -- had copies; correct?

7 A Yes, sir.

8 Q And he wanted them to return the documents  
9 that they had; correct?

10 A That is correct.

11 Q So would it be safe to say that he did not  
12 think that it would be advisable for them to retain  
13 copies; correct?

14 A You could draw that conclusion, sure, yes.

15 Q But you don't know -- you did ask  
16 Mr. Eggleston whether he made copies?

17 A I did ask him. I just can't remember, as  
18 we sit here now, whether he said he did or he  
19 didn't. I believe he said he did not, but I can't  
20 remember. I'm just -- I know I asked him do you have  
21 any copies and he said he did not retain any copies,  
22 he didn't have any. I am almost positive he didn't

1 have any copies.

2 Q Do you know whether or not Mr. Eggleston  
3 had told you he had made one copy of the last  
4 examination report dated March 21, 1993 to read?

5 A Give me that again.

6 Q Do you know whether or not Mr. Eggleston  
7 told you that he had made one copy of the last  
8 examination report dated March 21, 1993 to read?

9 A He may have. I just don't remember.

10 Q Do you recall whether or not he said later  
11 he had shredded that copy?

12 A Yes, he did tell me that. He told me he  
13 shredded -- yes, he said he ran something through the  
14 shredder. I just can't remember what specific  
15 document it was.

16 Q Did Mr. Eggleston tell you whether he had  
17 shared the information that he had received with  
18 anyone else at the White House?

19 A No, I don't believe he told me he shared it  
20 with anybody -- I don't believe he told me he shared  
21 it with anybody else. What he told me was that the  
22 only reason he had requested it was because there was

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1 a number of press inquiries. And since the material  
2 was being turned over to Chairman LaFalce and they  
3 thought there were going to be press questions,  
4 that's why they were getting information.

5 Q Now, what did you do with the documents  
6 after you received them?

7 A I went to Dallas, and when I returned from  
8 Dallas, we had a meeting scheduled with Mr. Mackay,  
9 Mr. Bostwick and Mr. Nixon, to go over Capital  
10 Management, you know, within the next few days or  
11 whatever. And when they came over, they had -- they  
12 had an agent from the FBI, Mr. Dana Gillis.

13 And they asked questions about, you know,  
14 the transaction involving Mr. Eggleston and the  
15 documents, and so on and so forth. And I gave those  
16 copies, I gave the documents that I got from  
17 Mr. Eggleston to Agent Gillis.

18 Q Now, did you inventory the documents at  
19 all, or match them up --

20 A Yes, he asked me to go through them to make  
21 sure that they were all there, and I went through  
22 them while he was standing there.



1 Q How did you determine whether they were all  
2 there?

3 A Well, I mean I had familiarity with the  
4 documents because I had just produced them, you know,  
5 as part of the report.

6 Q But did you have another copy or set in the  
7 office to match them up against?

8 A Yes, but I didn't match them, I went  
9 through and looked and they were also numbered, those  
10 documents were numbered. But I also went through  
11 them. I mean, I could tell what was there.

12 Q I mean there's -- today on the table here  
13 we have almost three Redwell folders of documents.  
14 You remember document for document?

15 A Not document for document, but I also can  
16 look at those documents, because of my familiarity  
17 with SBA documents, and a lot of the material there  
18 was, you know, just boilerplate documents. I mean,  
19 just -- I just went through them quickly.

20 Q But if, for instance, one particular year's  
21 examination was missing?

22 A I looked for the examination reports.

1 You've refreshed my recollection when you talked  
2 about that shredding of the documents -- I had  
3 forgotten about that -- he had told me, and I went  
4 through and I made sure all the examination reports  
5 were there. I remember doing that while Mr. Gillis  
6 was there.

7 Q What about the other kinds of reports that  
8 you supplied -- off the record.

9 (Discussion off the record.)

10 BY MR. GICALE:

11 Q Again, the process you used to determine  
12 whether or not the records you received from  
13 Mr. Eggleston, whether or not those records were  
14 complete, what was the process you used?

15 A We were standing in my conference room, and  
16 Mr. Gillis asked me to go through and make sure  
17 everything was there, so I picked up each Redwell and  
18 went through them quickly.

19 Q Page by page?

20 A No, I mean I didn't read each page by page  
21 but I went through quickly, having familiarity with  
22 the files, because I had just put those files

1 together in order to send the report to Chairman  
2 LaFalce. I did not verify that each and every one of  
3 those pages was there. No, sir, I did not do that.

4 Q And then you turned them over to?

5 A Agent Gillis.

6 Q Did you make a copy of what you turned over  
7 to Agent Gillis?

8 A I did not. I had no -- I had no idea that  
9 he was coming to get them. He just showed up with  
10 Mackay and Bostwick and Nixon when they came over. I  
11 had no idea he was coming to get them.

12 Q What date was this, do you know?

13 A November the 24th.

14 Q Now, what had been done -- strike that.

15 You made copies of documents to give to  
16 Congressman LaFalce; correct?

17 A That's correct.

18 Q Where -- what was done to maintain the  
19 integrity of the files, the original files, that you  
20 made copies from?

21 A The original SBA files?

22 Q Right.

1 A Well, we made copies, we put them back into  
2 the original SBA files.

3 Q Right. And they were kept in a secure  
4 area?

5 A They were kept in the -- the investment  
6 division has a file room downstairs and they were  
7 down in that area, yes.

8 Q Who has access to that?

9 A Anybody in the investment division.

10 Q And the records that you made copies of,  
11 all those records came from those investment division  
12 files?

13 A Yes, sir. Other than -- there's a referral  
14 on -- they asked for a copy of the indictment, I gave  
15 them a copy of the indictment, which is listed as  
16 number 12 on document 28894; and also number 11, they  
17 asked for a copy of the complaint that we had filed  
18 for receivership. Obviously those would not have  
19 been in the operations files; those were documents  
20 that I had obtained as part of my placing the company  
21 into receivership.

22 Q Did you talk to Mr. Eggleston at all about

1 the status of the information you had with respect to  
2 your investigation?

3 A No, sir.

4 Q Do you know whether or not that information  
5 was conveyed to him?

6 A I do not know that.

7 Q After turning this information over to the  
8 FBI agents, what's the next thing you did with  
9 respect to this case?

10 A I think we just kept going on trying to get  
11 additional information. I know I was trying to  
12 obtain information from Mr. Mackay. I had written to  
13 Mr. Mackay asking for information regarding a number  
14 of loans and investments, and I was trying to obtain  
15 information in cooperation with the FBI. And we also  
16 continued our interviews of the borrowers of Capital  
17 Management.

18 Q Now, did Mr. Eggleston give you a letter  
19 with the documents that he returned?

20 A Yes, sir.

21 MR. GICALE: Mark this for identification.  
22 (Stephens Exhibit 16 identified.)

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1 BY MR. GICALE:

2 Q I am showing you what's marked for  
3 identification as Stephens Exhibit Number 16. Is  
4 this a copy of the letter dated November 20, 1993,  
5 from Mr. Eggleston to Mr. Spotilia regarding the  
6 return of --

7 A Yes.

8 Q -- the LaFalce letter and the attachments?

9 A Yes, sir.

10 Q And this was delivered to you with the  
11 documents on that Sunday; correct?

12 A Yes, sir.

13 Q Now, did there come a point in time when  
14 Mr. LaFalce and Congresswoman Meyers asked for  
15 additional information with respect to Capital  
16 Management?

17 A Yes, sir. Chairman LaFalce said that he  
18 found our report inadequate and that he wanted  
19 additional information.

20 Q What additional information did he request?

21 A I can't remember now. I mean I think he  
22 asked for copies of -- I think all the examination

1 work papers might be one thing. I mean it was a  
2 whole laundry list. There is a letter from him  
3 expressing his request in great detail. I think that  
4 was sometime around, you know, late November.

5 Q As a result of those requests, what  
6 information did you provide him?

7 A We provided to him a copy of all of the  
8 examination work papers, and I believe also --

9 Q Now, where did you obtain them?

10 A The examination work papers?

11 Q Yes.

12 A The examination work papers were all over  
13 the country because the examinations used to be  
14 conducted by the Inspector General and they were  
15 conducted by, like, 11 different examiners over the  
16 years. And what they would do is they would ship the  
17 examination work papers, and within the examination  
18 work papers, there is like an A through G file.  
19 There are some they consider permanent files that go  
20 every time the examiner goes and that examiner then  
21 updates that file.

22 There are also new examination work papers

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1 created every time there is an exam. So whenever  
2 that examiner would go in and look at the  
3 information, they would create new files, like what  
4 they would call the E and F; A through D was  
5 permanent and E and F were the new files pertaining  
6 to that examination.

7 So we called out to the entire country and  
8 had all those files sent in and we provided those to  
9 the House. I am pretty sure we provided all those to  
10 the House. I think that's what his request was.

11 Q Did you provide any other information to  
12 the House?

13 A During most of December and January, I  
14 think there was periodic information provided to  
15 them, and I think it ultimately got down where we  
16 provided them a copy of all of our SBA files. In  
17 fact, I think that maybe what his request was of late  
18 November was to provide him with a copy of the full  
19 SBA files because that was at the same time that he  
20 sent the GAO investigators over to do the study. And  
21 I think that we provided a copy to Chairman LaFalce  
22 and GAO at the same time.



1 Q Now, when you say full SBA files, are you  
2 talking about all the notes and things we have talked  
3 about today?

4 A No, no. We are talking about the official  
5 SBA files which contain the examinations, the  
6 examination work papers, correspondence, leverage  
7 applications. There is a letter that Mr. Mackay sent  
8 to me which basically laundry-listed those official  
9 SBA letters; that's what he asked for, and that's  
10 what we provided.

11 Q You said Mr. Mackay sent you --

12 A Mr. Mackay, around the 1st of December or  
13 shortly after the meeting that we had on November 24,  
14 made a formal request for all of the SBA records in  
15 light of the criminal investigation.

16 And, at the same time Chairman LaFalce had  
17 sent in the GAO investigators asking to see all of  
18 the SBA files, so Mr. Mackay was very concerned about  
19 maintaining the integrity of the original documents.  
20 So, he sent me a letter saying please provide all the  
21 original documents, and we had an agreement with the  
22 FBI that the FBI would take all the SBA original

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1 documents and run copies. And I negotiated that they  
2 would also make copies for me, GAO, and also for  
3 Chairman LaFalce.

4 Q And again, describe the kinds of documents  
5 you were talking about, and if you could, distinguish  
6 these from the ones that we've talked about today.  
7 And if you can, distinguish them from the documents  
8 that were obtained, for instance, from David Hale  
9 and/or his attorney and his offices.

10 A When we talk about Capital Management,  
11 there are two sets of documents; one is the SBA set  
12 of documents, which is the SBA files, which begins in  
13 1982, and came all the way forward to 1993.

14 Q When in '93?

15 A When --

16 Q As of December?

17 A As of December. In those files, if you had  
18 a copy of Mr. Mackay's letter, you will see there is  
19 what they call an operations file, there is a  
20 licensing file, there is a leverage file. All right,  
21 the licensing file would have their license  
22 application, what they did to obtain their license.

1 Their leverage file would have copies in there of all  
2 their leverage applications whenever they came in to  
3 obtain money from SBA. The operations file would  
4 contain all correspondence from David Hale and from  
5 the agency back to David Hale and Capital Management,  
6 which basically that's your day-to-day file. So  
7 that's your three major files, whichever SBIC has  
8 leverage with SBA has those files.

9 In addition, there are the examination  
10 files, which we talked about previously. Those are  
11 also official agency records which are done by the  
12 examiners when they go out and look at the SBICs.,  
13 Those are what I am referring to which were provided  
14 to the House Small Business Committee and also to  
15 Mackay and also to GAO. Those were the official SBA  
16 records.

17 Q Now, what was different from the first  
18 response, how did the second response differ from the  
19 first response? The response on November 15 --

20 A The November 15 response was not for the  
21 agency files. The November 15, if you go back and  
22 look at Chairman LaFalce's letter of November 4, he

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1 asked for a report, tell me how much leverage did  
2 they get, when were they examined. I mean if you got  
3 the letter out, you will see what we provided him was  
4 in response to his letter. He did not ask for the  
5 SBA files. After we gave him this report, he then  
6 came back and said I want all the SBA files.

7 Q Well, when you say you gave him the report,  
8 you gave him a letter plus you gave him attachments?

9 A Right.

10 Q Which were the SBA files?

11 A Some of them were SBA files but some of  
12 these documents we also created. For example, we  
13 gave him a table to show when SBA got leverage. We  
14 also gave him copies of the 1031s. We gave him a  
15 list of the financings.

16 Q This is on November 15?

17 A That's correct.

18 Q But what did you add later on in December,  
19 what other kinds of things did you add?

20 A We gave him the full official SBA files.

21 Q All right, so anything you had not sent to  
22 him before November 15, you now --

1 A Right, and he also got the same thing. If  
2 there was stuff out of the files, he also got that as  
3 well. But this, which I referred to as the November  
4 15 report --

5 Q Right.

6 A -- was a distillation of information he  
7 requested from the filings.

8 He then came back and said, no, I want all  
9 the files now. I want all the files, not just this  
10 report --

11 Q Okay.

12 A -- which was a thumbnail sketch of what did  
13 Capital Management do.

14 And it was at that point that we gave him  
15 all of the files, okay. That's the SBA files.

16 Q Okay.

17 A Now, you also had another set of files  
18 called the Capital Management files, which were  
19 literally the day-to-day files that David Hale had in  
20 Little Rock. And those are the files I described to  
21 you earlier that when we got the receivership, we got  
22 those documents, put them in the back of the car and

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1 took them to the FBI. Those are the two separate  
2 files we are talking about.

3 When Mackay came in in December of 1993, he  
4 asked for the official SBA files and records, and  
5 that's what was provided to the FBI, GAO, and  
6 Chairman LaFalce.

7 Q Right. But again, you've distinguished  
8 between David Hale's records and Capital Management's  
9 records and the SBA records. You have, for instance,  
10 your handwritten notes here today. Would they have  
11 been part of the SBA records?

12 A No, sir. No, sir.

13 Q Or any of your -- the briefing memos to  
14 Mr. Bowles?

15 A Well, if the program people wrote a memo,  
16 it would have been in the SBA files. So, for  
17 example -- if -- like all those memos you saw that  
18 Walter Peterson was writing to the files, those were  
19 in the official SBA files, those were in the official  
20 records.

21 Q So memos to Mr. Bowles from Mr. Foren, for  
22 instance, with respect to the status of the David

1 Hale investigation, they would have been in the  
2 official SBA file?

3 A Now they may or may not have been. You  
4 know, oftentimes if managers do memos, sometimes they  
5 don't circulate them back to the staff. Now I don't  
6 know whether Wayne Foren, if he did a memo, if he  
7 always gave a copy to his staff or not. I know, for  
8 example, on the September 21 memo that was in the  
9 file, you know, that was -- the memo from Foren to  
10 Bowles was in the file. I mean their copy was  
11 circulated and put in the file.

12 Q Were those memos, those internal memos  
13 supplied on November 15th?

14 A No.

15 Q No?

16 A No.

17 Q So the internal memos were not a part of  
18 the November 15th production?

19 A That's correct. No, they were not  
20 provided.

21 Q It was just the filings -- and I know we  
22 keep going over this but I want to make sure --

1 November 15th, just the attachments that are listed  
2 there and they do not include internal memos of the  
3 SBA?

4 A That's correct. If I could just look and  
5 see the November 4th incoming letter from Chairman  
6 LaFalce, I think that might clarify.

7 Q Well, I am more concerned with what went  
8 out than what he requested.

9 A What went out was in response to what he  
10 requested. That's what I am trying to say here.

11 Q Now, did any of this -- this second  
12 request, or additional requests, any of this  
13 information, was this conveyed, copies of it conveyed  
14 to the White House?

15 A No, sir.

16 Q Now, from that point forward, after that  
17 second response, was there any further responses to  
18 either Congressman LaFalce or the White House that  
19 you assisted in the preparation of?

20 A To the White House, to the best of my  
21 knowledge, nothing was ever given to the White House  
22 after that Neil Eggleston issue that we talked about



1 earlier. As to Chairman LaFalce, anything that was  
2 transmitted to Chairman LaFalce was done by cover  
3 letter, saying enclosed please find the following  
4 information. And there were a number of productions  
5 of documents from November the 15th up through  
6 January, I believe. And a lot of that was, like I  
7 said, examination work papers that were coming in  
8 from around the country, physically getting the  
9 information copied by FBI that was coming back to us  
10 and so forth.

11 Q Just to show you by way of example, I will  
12 refer to document 2984. This is a copy of a document  
13 that was supplied on November 15, 1993 as an  
14 attachment to Congressman LaFalce's letter; is that  
15 correct?

16 A Yes.

17 MR. IVEY: 2984 or 2894?

18 THE WITNESS: 2984, that's correct, sir.

19 BY MR. GICALE:

20 Q This would have listed the financing -- the  
21 small businesses' names and the financing of those  
22 businesses?

1 A Yes, sir. What this reflects, if you look  
2 at the top of the page where it says "based upon SBA  
3 form 1031s" --

4 Q Right.

5 A -- the SBA keeps a database on every new  
6 financing that is done by the SBIC. The way we keep  
7 track of what type of business is getting money from  
8 the SBIC is why we have the SIC code in this column  
9 here, in all caps, and it -- and every SBIC is  
10 required to file this form within 10 days of when  
11 they make a financing to a small business.

12 And what this reflected was us going  
13 through and pooling all the 1031s, and that is  
14 distillation of what the 1031s say. We also provided  
15 a copy of the original 1031s, in the November 15th  
16 submission.

17 Q Okay, and Castle Sewer & Water was listed,  
18 South Loop Construction was listed, correct?

19 A That's correct, sir.

20 Q Master Marketing was listed; correct?

21 A That's correct.

22 Q And you also submitted on November 15 to

1 Congressman LaFalce -- and I am going to show you as  
2 an example, Bates 2993 -- copies of portfolio  
3 financing reports?

4 A This is a 1031.

5 Q That's a 1031?

6 A Right.

7 Q Okay. Now, those are 1031s, the first page  
8 is a 1031, document number 2993 is an example of a  
9 1031; correct?

10 A That's correct, sir.

11 Q As part of this package, did you turn over  
12 1031s with respect to Cable Vision Management, Castle  
13 Sewer & Water Corporation, Cole Masonry and  
14 Construction?

15 A I would have to check the filing but I am  
16 pretty sure we turned over a 1031 for every one of  
17 these.

18 Q Susan McDougal and Master Marketing, do you  
19 recall?

20 A Yes, there was definitely a 1031 on that.

21 Q South Loop Construction Corporation?

22 A Yes, sir.

1 Q Steven Smith, the communications company?

2 A Yes, sir. They are all there.

3 Q Now, copies of these 1031s and the summary  
4 of the 1031s were also forwarded to the White House  
5 in this package; correct?

6 A Yes, because that would have been part of  
7 the submission to Chairman LaFalce, yes.

8 MR. GICALE: Can we go off the record for a  
9 second.

10 (Discussion off the record.)

11 BY MR. GICALE:

12 Q Do you know anything about any faxes, fax  
13 transmission sheets between Neil Eggleston and John  
14 Spotilia?

15 A I did not know about any fax transmissions  
16 at the time. I came to learn about them when we were  
17 asked for all the information by Agent Gillis, when  
18 Agent Gillis came over.

19 Q And I assume -- Agent Gillis told that you  
20 Mr. Spotilia had faxed information?

21 A Oh, no. He had asked for any information  
22 that went back and forth, and I went and got Mr.

1 Spotilia and Mr. Spotilia came in the room. And  
2 Mr. Gillis, Agent Gillis asked Mr. Spotilia for any  
3 information that went between him and the White  
4 House, and Mr. Spotilia came and produced this file.

5 Q And produced a copy of the fax sheet and  
6 information he had received -- he had sent to  
7 Mr. Eggleston?

8 A Yes, sir.

9 Q Did he identify this information in your  
10 presence?

11 A Yes, we were all sitting around a  
12 conference table.

13 MR. GICALE: Mark these for identification.  
14 (Stephens Exhibits 17 and 18 identified.)

15 BY MR. GICALE:

16 Q I am showing you what's marked for  
17 identification as Exhibit 17 and 18. First, 17, is  
18 this a copy of the fax transmission sheet with an  
19 attachment that Mr. Spotilia provided Agent Gillis in  
20 your presence?

21 A I don't recall for sure but I believe it  
22 is.

1 Q Did you assist in providing this document  
2 to the committee, do you recall?

3 A To the committee?

4 Q Yes, in the production of the Department.

5 A No, no, sir.

6 Q I am showing you what's marked for  
7 identification as Exhibit 18. This is another fax  
8 transmission sheet for 11/16/93. And just for the  
9 record, the other transmission sheet was also  
10 11/16/93, the first was 11:20 in the morning and this  
11 one is 3:20 p.m.

12 Does this appear to be a copy of the fax  
13 transmission sheet and attachments that Mr. Spotilia  
14 gave to Agent Gillis in your presence?

15 A Yes, sir.

16 Q And attached to that is a copy of a  
17 November 16 letter to Mr. Eggleston from  
18 Mr. Spotilia, with a copy of the letter to  
19 Congressman LaFalce from Mr. Bowles?

20 A Yes.

21 Q Up to this point, did you brief, at any  
22 time, brief Mr. Bowles with respect to any of this

1 information that you had obtained or with respect to  
2 the response, proposed response to Congress or the  
3 White House?

4 A No, sir. I was only at one meeting ever  
5 with Erskine Bowles regarding the SBICs. And the  
6 question came up whether he wanted to be briefed on  
7 Capital Management, and he said no, I do not want to  
8 know anything about Capital Management.

9 Q When was that?

10 A That would have been the fall of 1993. And  
11 we were just talking about SBIC matters in general,  
12 and he said he did not want to be briefed.

13 Q Do you know what month in 1993 that was?

14 A Probably October.

15 Q Do you know a date?

16 A I don't have a date. All I remember is a  
17 meeting to discuss upcoming testimony in the Senate  
18 or the House regarding the SBIC program. And the  
19 question came up whether or not the administrator  
20 wanted to be briefed, and he said no, that he did not  
21 want to be briefed on Capital Management.

22 Q Did he indicate why he did not want to be

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1 briefed on Capital Management?

2 A No, he just said that it was to be handled  
3 by the career people, and that this should be treated  
4 as a case just like any other case, and that we  
5 should do whatever we would do in any other  
6 circumstance.

7 Q That was October of '93 or October of '94?

8 A October of '93.

9 Q Did he say he was recused from that matter?

10 A No. He -- he didn't say recusal per se,  
11 but he was -- he said he was going to stay out of  
12 it.

13 Q And he did not get -- did he give a reason?

14 A It was -- I just can't remember  
15 specifically what he said. It literally was like a  
16 30-second conversation; he said he didn't want to be  
17 informed of anything. The only reason I remember it  
18 was because we were preparing for a hearing, and  
19 there were a number of people in the room and he said  
20 I don't want to know anything about it. And he said  
21 I just want to stay out of it and if I am asked any  
22 questions, that way I can respond that I don't know



1 anything about it. I am not involved.

2 Q Who was present when he made that  
3 statement?

4 A Mr. Morris, Tom Morris from the office of  
5 liquidation. Cassandra Pulley, Charles Hertzberg. I  
6 believe Ed Cleveland. And that's all I can remember  
7 at the time.

8 Q Now, were you aware of the fact that there  
9 were memos in the file to Mr. Bowles from Mr. Foren  
10 when he made that statement?

11 A I knew the September 21 memo had gone to  
12 Mr. Bowles explaining the Capital Management -- you  
13 have to understand, in the scope of time, things were  
14 just starting -- the press hadn't even started to  
15 pick this up until October or November. That's when  
16 the press inquiries really started to hit and we  
17 still didn't know what we had.

18 When the information that was sent to  
19 Bowles on September 21 by Wayne, was something that  
20 we would have done in the ordinary course because it  
21 was a high profile criminal thing and we were trying  
22 to get ahead of the curve because of the press.

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1 So, I mean if your question is did I know,  
2 sure, I knew it and he was being kept apprised  
3 because it was a high press issue.

4 Q So he had -- how do you know he was made  
5 aware of it prior to the time that he said that he  
6 didn't want to see anything on it or know about it?  
7 How you did you know he had been given a copy --

8 A The September 21 memo?

9 Q Yes.

10 A Because I dictated the September 21 memo  
11 from Little Rock back to the program people because  
12 the program people wanted to advise him.

13 Q So you did that for the program people and  
14 it was -- they indicated to you that they were going  
15 to give to it Mr. Bowles to read?

16 A Yes.

17 Q What about the other memos that were  
18 directed to him in August and earlier in the year?

19 A I don't remember the August 9 memo that --  
20 the one you showed me earlier that Wayne has his  
21 signature on, he and Mr. Teckler. I don't remember  
22 that. That doesn't mean I didn't see it. I just

1 don't remember that one. And I don't think there  
2 were any others. I mean earlier in the year, now  
3 there were some subsequent memos that -- for example,  
4 Congresswoman Meyers, for example, sent a letter over  
5 to the administrator saying, you know, where is the  
6 Congressional file or something like that.

7 And the administrator said I want every  
8 document turned over, I want everything turned over  
9 to the committee and I want to know what the answer  
10 is, why didn't we turn this over or something. And I  
11 was instructed to prepare the response and I prepared  
12 the response which was sent forward under  
13 Mr. Teckler's signature.

14 Q Well, are you aware of the fact that at  
15 some point in time Mr. Bowles indicated to the  
16 Congresswoman that he had not previewed any files?

17 A Yes, sir.

18 Q And was that accurate, based on what you  
19 knew?

20 A To the best of my knowledge, it is  
21 accurate.

22 Q Well, he had receive a memo on September

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1 21; correct?

2 A That memo was just, you know, we have taken  
3 them into receivership, he didn't review any files  
4 with it. It was just a cover memo.

5 Q Well, the memo also -- and this is a part  
6 of what has been marked for identification as  
7 Stephens Number 2, I believe this is the last  
8 document, a part of that -- it also referred to the  
9 fact that Mr. Hale was expected to be indicted on  
10 Tuesday, September -- there was going to be a  
11 presentation to the grand jury on Tuesday, September  
12 21; correct?

13 A That's correct.

14 Q And this was appraising Mr. Bowles of that;  
15 correct?

16 A That's correct.

17 Q And this is something you prepared for him?

18 A I believe at the time, I was in Little  
19 Rock; I think that's when we were in the process of  
20 taking Capital Management down and obtaining the  
21 documents from David Hale. And I called back to  
22 Helen Mincer and Tom Morris and said this is where it

1 is, and they said Wayne wanted to send a memo up to  
2 Bowles and let him know where we are on this thing.

3 So I said this is where we are, and  
4 Fletcher says he is going to get an indictment on the  
5 last Tuesday of the month. And we should basically  
6 expect the press inquiries.

7 Q All right, but they told you that this was  
8 going to go to Mr. Bowles?

9 A Yes, sir.

10 Q So you knew some information was going to  
11 go to him with respect to this case?

12 A Oh, absolutely.

13 Q And when he later said he had not received  
14 any information, did you believe that to be a correct  
15 statement?

16 A Yes, I believed that to be a correct  
17 statement. He was informed only as to the press  
18 information, to my knowledge, only as to stuff to  
19 keep him apprised that there was a press matter and  
20 he was signing the letters that were going over to  
21 the committee, because it was a formal request coming  
22 from the chairman of the Small Business Committee.

1 Q Now, at some time you received a fax  
2 transmission from the FBI regarding Master Marketing  
3 and an irrevocable stock power and proxy statement;  
4 do you recall that?

5 A Yes, I did.

6 Q That would have been in February of '94?

7 A Correct.

8 Q What was the reason for receiving that?

9 A We had received a letter from Congressman  
10 Mac Collins of Georgia, who had written the letter in  
11 saying that he had come to learn that David Hale was  
12 really running Madison Guaranty, and that because  
13 Susan McDougal and Jim McDougal had pledged their  
14 stock in Madison, that Hale really had control of  
15 Madison, and therefore the SBA ought to be repaying  
16 the RTC for their \$55 million loss.

17 And I couldn't put my hands on a copy of  
18 that stock power, in the -- there were two pieces of  
19 paper, one was the irrevocable stock power and the  
20 other was the stock certificate or something like  
21 that.

22 And so I called the FBI and said look, can

1 you fax that in here quickly, we have to prepare a  
2 response to Congressman Collins.

3 MR. IVEY: Which document was that?

4 MR. GICALE: There is no number to it. But  
5 here is a copy if you want to take a look at it.

6 MR. IVEY: But for the record, was there a  
7 date given?

8 MR. GICALE: The fax date is February 1,  
9 1994, it is a fax from the FBI to Mark Stephens,  
10 regarding subject Master Marketing.

11 BY MR. GICALE:

12 Q Did you ultimately conclude that the loan  
13 to Susan McDougal of \$300,000 from Capital Management  
14 was inappropriate and that she was ineligible to  
15 receive that loan in light of her financial  
16 circumstances?

17 A With all due respect, that's a compound  
18 question.

19 In what I looked at, there was an issue as  
20 to whether or not she was eligible, because of her  
21 financial circumstances. But the SSBIC program does  
22 not have a limit as to their economic net worth of

1 the individuals who are borrowing money from an  
2 SSBIC.

3 So there was never a finding or a  
4 determination. Would I have made the loan to Susan  
5 McDougal? No. But whether it was illegal or not, we  
6 never made the decision -- we never had to come to  
7 that conclusion because we already had a judgment  
8 against her for the money, anyway.

9 Q Did you subsequently discover that the  
10 \$65,000 loan to Steven Smith was used for purposes  
11 over than the purposes he had indicated?

12 A Yes, we did.

13 Q And it was used to pay off a mortgage for  
14 real estate instead of for the communications  
15 company?

16 A Yes, we did.

17 Q What's the status of the receivership at  
18 this point?

19 A We are in the process of obtaining  
20 restitution payments from Mr. Kuca, Mr. Smith, and  
21 we're also collecting on some of the accounts. There  
22 were a couple of legitimate investments by Capital



1 Management. We are unfortunately in a holding  
2 pattern to a large extent while we are waiting for  
3 David Hale to become available. The independent  
4 counsel will not make him available to us for an  
5 interview.

6 Q Now, we have spent a great deal of time  
7 going through the information that you gathered up  
8 through early January, I believe, 1994. Other than  
9 the documents that were attached to Congressman  
10 LaFalce's letter on November 15th, do you know of any  
11 other information you had in your possession or  
12 control or the agency had in their possession or  
13 control that was conveyed to the White House or any  
14 of the targets of this investigation?

15 A No, sir.

16 Q And again, with respect to those documents,  
17 you've indicated that you will provide us with a copy  
18 of those and the attachments subsequent to this --

19 A Yes, sir.

20 Q -- deposition.

21 And again throughout this entire period you  
22 continued to brief Mr. Teckler and Mr. Spotilia with

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1 respect to the status of your investigation, up until  
2 January 1994 and thereafter?

3 A I have continued to brief Mr. Teckler  
4 throughout the course of the investigation, up  
5 through today. Mr. Spotilia recused himself in early  
6 1994 right around the same time as Mr. Bowles  
7 formally wrote his recusal letter at the same time.

8 Q Did Mr. Spotilia indicate why he was  
9 recusing himself?

10 A At the time there was a lot of press and so  
11 forth about the contacts, you know, between  
12 Mr. Altman and the RTC, and there was a lot of  
13 concern about the political people being involved,  
14 and Mr. Spotilia said I don't even want to be  
15 informed, I don't want to be advised, I don't want to  
16 have any part of this.

17 Q That's when he recused himself, and is that  
18 about the same time that Mr. Bowles recused himself?

19 A Just so that it is clear, Mr. Spotilia, all  
20 I did was periodically advise Mr. Spotilia. But I  
21 had to call -- Mr. Spotilia always told me it was my  
22 case and I did everything. I was told to report to

1 Mr. Teckler. And Mr. Teckler and I had all the  
2 strategy calls and I had everything.

3 Mr. Spotilia was kept advised, but it was  
4 more along the lines, look, this might come out in  
5 the press tomorrow or there may be a press  
6 announcement or something like that. Or if we had a  
7 request from the Hill, for example, when Chairman  
8 LaFalce or Congresswoman Meyers would write in, he  
9 would always -- make sure it was done right. But I  
10 haven't advised him or informed him on anything on  
11 Capital Management since probably January, February,  
12 1994.

13 Q But up to that point in time, you did  
14 advise him as to the status of the Hale/Coleman  
15 allegations with respect to Tucker and your  
16 information with information with respect to Steven  
17 Smith and Master Marketing that you had?

18 A Yes, I did.

19 Q At that point in time; correct?

20 A Yes, I did.

21 Q And do you know who in turn he may have  
22 briefed with respect to that information?

1 A That I don't know.

2 MR. GICALE: I have nothing further.

3 MR. IVEY: Let's take a break and see if we  
4 can wrap it up.

5 (Recess.)

6 EXAMINATION

7 BY MR. IVEY:

8 Q Good evening, my name is Glenn Ivey. I am  
9 going to try to keep this to around 30 to 45 minutes,  
10 but it may take a little more or a little less, but I  
11 will try to move through it as expeditiously as I  
12 can.

13 Now, at the beginning of the deposition,  
14 you talked about a variety of transactions that  
15 Mr. Hale and CMS participated in, many of which  
16 appeared to be fraudulent, and you found evidence  
17 that led you to suspect that there might have been  
18 fraud involved; is that fair to say?

19 A Yes, sir.

20 Q Now, as part of your investigation, did you  
21 do investigations about where the money within these  
22 transactions flowed, what institutions might have

1 received money from CMS or given money to CMS?

2 A Yes, we did.

3 Q Did you find any evidence or -- that led  
4 you to conclude that Whitewater Development received  
5 money from CMS?

6 A Whitewater Development itself did not  
7 receive any money from Capital Management.

8 Q Did you find any evidence that Bill or  
9 Hillary Clinton received any money from Capital  
10 Management Services or Mr. Hale?

11 A Personally? No, sir.

12 Q I have a copy of a report, it is from the  
13 Small Business Administration, dated March 24, 1994,  
14 and it is addressed to the Honorable John J.  
15 LaFalce. This report is 57 pages long. And it has  
16 got a cover letter signed by Cassandra Pulley, Deputy  
17 Administrator. Did you help prepare this report?

18 A Yes, I did.

19 Q Let me read a paragraph, or part of a  
20 paragraph from this report to you, and ask you if you  
21 agree with it. It says "allegedly Mr. McDougal  
22 informed Mr. Hale that this document represented the

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1 true purpose for the utilization of the \$300,000  
2 loan. The document has been provided to the  
3 independent counsel for his review, along with other  
4 information concerning the Master Marketing loan.  
5 Media accounts have reported that a portion of the  
6 loan proceeds were used to purchase property for  
7 Whitewater Development Corporation. However, the SBA  
8 has not to date obtained any information which would  
9 verify these reports." Is that a correct statement?

10 A That was true at that time.

11 I should say, since March of 1994, I  
12 subpoenaed the records from the RTC involving Master  
13 Marketing and we obtained copies of checks and  
14 disbursements and so forth, and there were checks  
15 that were used to pay, I believe, a sum of like  
16 \$100,000 or something like that to Whitewater  
17 Development -- I shouldn't say that. I am not sure.  
18 I know there was some money there.

19 Q That -- money there that what?

20 A I believe went to Whitewater Development.

21 Q From Master Marketing?

22 A From Master Marketing, yes, sir.

1 Q Do you recall what documents would -- that  
2 you received that demonstrated that, what types of  
3 documents?

4 A I subpoenaed the checks for Master  
5 Marketing and Susan McDougal's accounts and it showed  
6 checks going out to various and sundry entities,  
7 Flowerwood Farms, and their various bills, and so  
8 forth.

9 Q One of these checks went to Whitewater  
10 Development?

11 A I don't recall at this moment. I really  
12 just don't remember.

13 Q Okay. So just to be clear about that, you  
14 are not clear if there was any money that went from  
15 Master Marketing to Whitewater Development?

16 A That's right. I just can't recall at this  
17 moment.

18 Q Are you familiar with the GAO report from  
19 March 1994?

20 A I'm -- yes, I am familiar with that  
21 document.

22 Q Just for the record, it says "Small

1 Business Administration, inadequate oversight of  
2 Capital Management Services, Inc. a SSBIC." I  
3 believe on page 16 of this report it also says that  
4 they were unable to find evidence to support and/or  
5 refute conflicting claims about the \$300,000 loan  
6 that Capital Management made to Susan McDougal. You  
7 are familiar with the report?

8 A Yes, sir. They -- the GAO investigators  
9 were with me and working at the same time. They were  
10 attending some of the interviews with the borrowers  
11 and also interviewed me in depth when they were  
12 preparing that report.

13 MR. GICALE: That's as of what date?

14 MR. IVEY: March '94.

15 BY MR. IVEY:

16 Q There were a number of questions about Dean  
17 Paul and Steven Smith as well.

18 And I know you had notes and in one of the  
19 notes, Steve Smith, I think you had as a  
20 parenthetical, "friend of Bill Clinton" written next  
21 to it.

22 Did you come across any evidence that



1 linked Bill Clinton, you know, with respect to a  
2 financial transaction, the one that you were taking  
3 notes about Mr. Smith, did you come across any link  
4 there?

5 A No, sir.

6 Q So you just sort of made a note that they  
7 were friends?

8 A Mr. Hale said to me Steve Smith, I believe  
9 held a position in then-Governor Clinton's cabinet or  
10 administration when he was governor and that's what I  
11 was referring to.

12 Q But he didn't say anything about Smith and  
13 Clinton participated together in some sort of  
14 business transaction that he knew about?

15 A No.

16 Q What about Dean Paul? Did you come across  
17 any evidence that connected Mr. Clinton to these  
18 transactions that Dean Paul was questioned about?

19 A No, sir.

20 Q Now you mentioned that Mr. Hale consented  
21 to receivership in September of 1993?

22 A That's correct.

1 Q And that after that, you and someone else  
2 from the SBA went to Mr. Hale's office and collected  
3 documents?

4 A Our receivership agent Cecilia Seay and her  
5 secretary, yes.

6 Q That collection of documents took place  
7 after the search warrant had been executed by the  
8 FBI, and I believe it was July 21, 1993?

9 A That's correct. This was in September of  
10 1993 is when we picked up his records.

11 Q And then you took the documents that you  
12 received to the FBI?

13 A That's correct.

14 Q Did the FBI say anything about why they had  
15 not taken those documents when they first executed  
16 the search warrant?

17 A Well, the search warrant had to be specific  
18 as to -- it was my understanding of the criminal  
19 system, I am not a criminal attorney, but it had to  
20 be specific as to probable cause. There had to be  
21 some basis for them to go seize a search warrant, you  
22 can't just take everything under the sun. So they

1 had focused only on a certain amount of files or  
2 number of files when they went in on October 20, they  
3 did not take anything.

4 Q What documents did you seize or collect,  
5 and then provide to the FBI; what types of documents  
6 did you get?

7 A Well, there were, oh, I think like 14 boxes  
8 of documents that are itemized in the receipt that I  
9 received back from the FBI. In there was everything  
10 related to Capital Management, the telephone bills,  
11 their loan files, any loan files that hadn't been  
12 already seized by the FBI. Correspondence, bills  
13 that were submitted to Capital Management, American  
14 Express accounts, I think we even took the phone  
15 books.

16 Q See you took everything that was left?

17 A Yes, we did.

18 Q Let me give you Exhibit 5. Those were the  
19 notes that you took during your interview with David  
20 Hale?

21 A Yes, sir.

22 MR. GICALE: Which one is this, again?

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1 MR. IVEY: Exhibit 5.

2 BY MR. IVEY:

3 Q Now, if my recollection is correct, I think  
4 there is one mention of the Clintons in there or  
5 Mr. Clinton maybe not on the front page, I believe it  
6 comes a little later, and that maybe the one that  
7 refers to him as being a friend of Steve Smith?

8 A Yes, sir.

9 Q First of all, Exhibit 5, is that all from  
10 one conversation?

11 A Yes, this was all in a meeting that  
12 occurred in Mr. Coleman's office.

13 Q How long did the meeting last?

14 A I would say an hour or two.

15 Q Why did Mr. Hale and his attorney,  
16 Mr. Coleman, agree to an interview at a point  
17 which -- at a point after which Mr. Hale had been  
18 indicted?

19 A In the course of receiving the receivership  
20 as part of the receivership order it is part of our  
21 boilerplate that we direct the principals of the SBIC  
22 to give us all the information and turn over all

1 their books and records to the SBA as receiver.

2 So -- and so when I tried to interview  
3 David Hale back in -- like September 15th, in that  
4 period, when we obtained the receivership order, and  
5 when we were picking up the books and records  
6 Mr. Coleman asked that I not interview Mr. Hale  
7 because at that point in time, he was very  
8 emotionally distraught with the fact of his pending  
9 indictment. And that if I would be so kind as to  
10 wait until they got the -- until the indictment was  
11 over, he was planning on resigning his judgeship,  
12 that they would agree to meet with me and answer  
13 questions regarding the various investments, because  
14 I said, you know, the files are meaningless unless  
15 you have somebody to walk you through them. It is  
16 very difficult to unravel the thing.

17 So when I was out there picking up the  
18 documents in September, like that week of September  
19 15 to 21, that's when they agreed we would reschedule  
20 and have a meeting to discuss the various  
21 investments.

22 Q So he didn't do this out of the goodness of

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1 his heart; this was part of the receivership  
2 agreement?

3 A Yes, he did.

4 Q You took how many pages of notes there?

5 A Four pages.

6 Q And it appears to me from looking at that,  
7 and your numerous other pages of notes, that you are  
8 a note taker?

9 A Well, part of the -- part of the problem  
10 was I was asking a lot of the questions, and so I was  
11 trying to write as I was questioning at the same  
12 time. And very similar to like taking a deposition,  
13 it is hard to take as detailed notes as you would  
14 like.

15 The other part of it I felt the answers  
16 weren't very forthcoming and were relatively  
17 evasive. So it was very difficult to pin it down.  
18 And then a number of times when we tried to press  
19 Mr. Hale, he would -- Mr. Coleman would interject and  
20 say he is not going to talk about that investment.  
21 That's a matter, it is under investigation.

22 Q Now, he wasn't forthcoming about matters

1 with respect to transactions that he participated in;  
2 is that fair to say?

3 A That's correct.

4 Q Did he mention his relationships with other  
5 people? I think Governor Tucker's name is mentioned  
6 in your notes there?

7 A I mean, he talked about Governor Tucker,  
8 and Governor Tucker's involvement with Castle Water &  
9 Sewer, but it was more from Mr. Coleman than it was  
10 from Mr. Hale at that point. Mr. Coleman -- I had a  
11 couple of meetings with Mr. Coleman where Mr. Coleman  
12 said he would respond to my questions, but I never  
13 got very far with Mr. Coleman. He would always say I  
14 will go ask David, give me your questions and I will  
15 ask David and get you your answers. But every time  
16 we would meet, I was always -- the answers were not  
17 forthcoming.

18 Q At about this time, Hale and Coleman were  
19 negotiating with the Justice Department to try to get  
20 a plea deal. Were you aware of that at the time?

21 A Yes, I was.

22 Q And also at about this time, the media

1 started publishing claims, I guess from Mr. Hale,  
2 either directly or indirectly, that Tucker and  
3 Clinton had pressured him to make a loan, I believe  
4 it was?

5 A That's correct.

6 Q I take it he didn't mention anything like  
7 that in the interview you had with him?

8 A He -- in the interview I had with him in  
9 October of 1993, there was only a passing reference  
10 of Mr. Clinton. There was not anything detailed.

11 His focus in that meeting in my view was to  
12 try to steer me towards Tucker, Governor Tucker.  
13 That was where when there was any in-depth  
14 discussion, look at Castle Water & Sewer, look at  
15 South Loop, look at Steve Smith, you know, the  
16 Tucker/McDougal transactions, like that, that was  
17 clearly what I came away with the impression of.

18 There was not the Clinton connection, it  
19 was more the Tucker connection.

20 Q He was trying to steer you towards  
21 Mr. Tucker at points at which you raised questionable  
22 or suspicious issues and transactions he participated



1 in?

2 A I wasn't raising issues of suspicious  
3 transactions. What I was doing was going down the  
4 list of investments. I was saying what about the  
5 list in this investigation, I was walking through, as  
6 you see in my notes here, I was walking through the  
7 investments and once in a while we would strike a  
8 chord, like Communications Corporation, you could  
9 read their body language and they would get a  
10 reluctance not to speak and Mr. Coleman would take  
11 over and not Mr. Hale.

12 Q Is it your view those points in the  
13 conversation were points at which you'd asked  
14 questions about transactions that were suspicious?

15 A Yes. And I also had a meeting with the FBI  
16 before I went over to this meeting, and they had said  
17 to ask questions about Master Marketing, and --  
18 Castle Water & Sewer, I know was one of them, and  
19 South Loop, and I can't remember any others. But I  
20 had met with the FBI before I went over and  
21 interviewed Mr. Hale that day. When I said the FBI I  
22 also included -- that was Agent Reign and also

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1 Fletcher Jackson.

2 Q When you asked questions about Master  
3 Marketing, South Loop and Castle Water & Sewer or  
4 Sewer & Water, were those points when he was evasive  
5 with you?

6 A Yes, he would not discuss Master Marketing.

7 Q What about --

8 A I should take that back. He said he had  
9 obtained a judgment and I could collect it.

10 Q Let me ask you about that judgment.

11 Was it your sense that he had been working  
12 with Susan McDougal with respect to this initial  
13 transaction but that it soured?

14 A I can't know -- at that point in time in  
15 October of 1993, I didn't know who Susan McDougal  
16 was.

17 Q What do you think now? What do you think  
18 now?

19 A What do I think personally now? Whether he  
20 was working with Susan McDougal.

21 Q Right.

22 A I don't know so much about Susan McDougal,

1 I think he was working with Jim McDougal. I don't  
2 see any -- the only thing I saw with Susan McDougal's  
3 name, there was I think one letter in the file where  
4 she wrote in and said here is a payment or we're  
5 late.

6 And, when we obtained the document just  
7 referred to in the GAO report, the thing that  
8 Mr. McDougal allegedly gave Mr. Hale during that  
9 discussion, that document was provided at a meeting  
10 where I was at with Mr. Coleman. So when you say  
11 what do I think now I am getting that based upon my  
12 discussions with Mr. Coleman and over the course of  
13 time, the newspaper accounts and so forth. And also  
14 having read the indictment of Mr. McDougal.

15 Q With respect to the evidence that you have  
16 come across, we will set media reports aside --

17 MR. GICALE: Well, what evidence are we  
18 referring to? In what time period are we talking  
19 about?

20 MR. IVEY: The predicate to my question was  
21 today. I am not asking for a cutoff, for 1993 or  
22 1994 anywhere. And what was the other part of your

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1 question, what evidence are we talking about? I  
2 think --

3 THE WITNESS: I am not sure I understand  
4 the question. Could you give me the question again.

5 BY MR. IVEY:

6 Q Okay. You've reviewed countless documents  
7 with respect to CMS?

8 A That's correct.

9 Q And it is fair to say you didn't stop  
10 reviewing documents and interviewing witnesses and  
11 acquiring new information with respect to CMS in  
12 1993, or '94, it is something you continue to deal  
13 with even today?

14 A That's correct.

15 Q In the course of that gathering of  
16 evidence, did you come across any information about  
17 any relationship between CMS and Master Marketing? I  
18 think you've testified about a \$300,000 loan. But I  
19 am trying to get all the information you have about  
20 it, and then I want to ask you some questions about  
21 that information.

22 A I am not being evasive. Is there a

1 question pending or do you want to know what I have  
2 gathered?

3 Q Yes.

4 A Okay. There was a Master Marketing file,  
5 which I never had the original of. The FBI gave us a  
6 copy of, because the Master Marketing file was one of  
7 the original files that was taken in the July 20th  
8 search warrant, so we had a file on that Master  
9 Marketing.

10 I reviewed those documents which contain  
11 the note, the judgment against Susan McDougal, a copy  
12 of the complaint against Susan McDougal, the letter  
13 from Susan McDougal saying David will pay, I looked  
14 at that file.

15 I also obtained from Mr. Coleman a copy of  
16 a document called a confidential data marketing  
17 thing, or something along that line, I can't remember  
18 exactly the title, which he told me Jim McDougal had  
19 given to David Hale. And that's referred to in the  
20 GAO report. I obtained that document.

21 I also obtained, through a subpoena to the  
22 RTC, a copy of the checks of Master Marketing to try

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1 and figure out where the money went to, you know,  
2 where the \$300,000 -- to try and track the \$300,000.

3 I tried to interview Susan McDougal and Jim  
4 McDougal and neither one would be interviewed. That  
5 was back in 1993. All right, I was never able to  
6 obtain any additional information on Master  
7 Marketing, obviously from David Hale. David Hale has  
8 been unavailable to me the entire time and I haven't  
9 been able to interview Jim and Susan McDougal.

10 So the sum and substance of my knowledge is  
11 what I have just laid out to you right now, and it is  
12 in looking at those documents. I don't know if that  
13 helps you, but that's what I know.

14 Q Let me show you here Exhibit 9, and ask you  
15 about line number 3. It says -- what is it, "nothing  
16 here," what does it say?

17 A This is a note, my telephone conversation  
18 with Fletcher Jackson on October 31 where I was  
19 obviously asking him questions and Fletcher told me  
20 that there was nothing that he had found in the  
21 Master Marketing showing that \$300,000 went to  
22 Whitewater.

1 Q That's Fletcher Jackson's statement?

2 A This is Fletcher Jackson's statement.

3 Q You also testified about an exhibit,  
4 Exhibit 7, I think it was, with handwritten notes,  
5 which apparently memorialized a conversation about  
6 Coleman rejecting a plea offer.

7 A Yes.

8 Q Now you said something about he offered to  
9 help with Tom Anderson?

10 A Yes, sir.

11 Q Help you in what way? What was meant by  
12 that?

13 A Tom Anderson was the president of Central  
14 Arkansas Development Corporation, which was the  
15 entity that donated the \$13 million worth of hospital  
16 receivables. Tom Anderson also was an officer of  
17 Capital Management, and I was trying to get  
18 information on Tom Anderson, and couldn't come up  
19 with anything, and I was getting a dead end.

20 And I said -- and again, you have to look  
21 back at the time period. I was still focusing on  
22 the -- you know, on the Tom Anderson, on the 13

1 million, and I wanted to know what was happening  
2 there. We were also getting other information that  
3 Tom Anderson and a couple of other individuals were  
4 appearing throughout a number of deals and I was  
5 trying to obtain information. And Coleman said to me  
6 if I get the plea I can help you with Tom Anderson,  
7 to unwind the issue.

8 Q So, this was -- this conversation took  
9 place at a point at which Coleman had told you that  
10 he was having difficulties negotiating a plea offer  
11 that Mr. Hale would find acceptable?

12 A Yes, sir.

13 Q With respect to either the U.S. Attorney's  
14 Office or main Justice?

15 A Yes, sir.

16 Q And they wanted you to intervene, in  
17 essence?

18 A Mr. Coleman wanted to know if I would call  
19 over to the U.S. Attorney's Office and recommend to  
20 them a plea bargain.

21 Q And, in exchange for that, assuming the  
22 plea bargaining was successful, he was going to help



1 you in building a case against Tom Anderson?

2 A Tom Anderson and the whole Capital  
3 Management portfolio.

4 Q I think you also mentioned something about  
5 civil recoveries. Were those with respect to Tom  
6 Anderson or in addition to recoveries from  
7 Mr. Anderson?

8 A Those were in addition to Mr. Anderson. We  
9 didn't actually lose any money on Mr. Anderson's  
10 transaction, because we never gave a leverage, that  
11 was another reason why we discontinued pursuing that,  
12 and I also was waiting for the FBI to get back to me  
13 because that, in essence, was the origin of the  
14 referral.

15 Q Did you ever relay that information to the  
16 FBI or the Justice Department about this offer that  
17 Coleman had made with respect to Tom Anderson?

18 A I believe I talked to Fletcher Jackson, and  
19 I said to Fletcher, I don't want to get in the middle  
20 of the criminal thing. I want to stay out of it and  
21 Fletcher said it is a good idea. It is above my head  
22 anyway, he is dealing with Mike Johnson or whoever,

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1 and I said fine, I am not going to make a call. And  
2 I called Randy Coleman back and said I would not get  
3 in the middle of a criminal discussion.

4 Q Did you continue any negotiations or did  
5 you have subsequent negotiations with Mr. Coleman  
6 with respect to having Mr. Hale assist you in  
7 pursuing either Tom Anderson or other types of civil  
8 recovery?

9 A I had discussions with Mr. Coleman, I know,  
10 from September of 1993, up until the point David Hale  
11 pled guilty. And then, I was still trying to get  
12 access to David Hale and the independent counsel  
13 would not let me have access to Mr. Hale. So I  
14 worked out an agreement with the independent counsel  
15 that I could prepare my questions and send  
16 Mr. Coleman questions, and Mr. Coleman would provide  
17 me the answers.

18 So then I had another meeting with  
19 Mr. Coleman which nothing came out of, because I was  
20 just trying to -- you know, there were a lot of  
21 things that we thought were dead and I was concerned  
22 that if Mr. Hale was -- I know he already pled

1 guilty, that he was going to try and argue SBA  
2 screwed up the receivership and didn't pursue all  
3 these leads. I was trying to get David Hale to say  
4 at least this is a dead issue, that is dead issue,  
5 and scratch them off the list so I didn't have to  
6 burn up more time and effort chasing dead ends  
7 because what I was finding there was there was no  
8 money there. So there were ongoing discussions with  
9 Mr. Coleman up until the point where he left the  
10 practice of law.

11 Q You had negotiations with Coleman and Hale  
12 at some point, or on an ongoing basis, up to the time  
13 he pled guilty with the independent counsel?

14 A I had discussions with Coleman, not with  
15 Hale.

16 Q Okay.

17 A And these weren't on a day-to-day basis. A  
18 lot of it was me calling Coleman and saying, look, I  
19 need information, or I -- I need some help with an  
20 issue, can you ask Hale. And there was a quiet  
21 period, as they say, right before he pled guilty  
22 where I wasn't hearing anything. And then I got a

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1 call from the independent counsel's office saying,  
2 you know, if you are interested in what's happening  
3 with David Hale you ought to be in Little Rock  
4 tomorrow, and then David Hale pled guilty.

5 Q So, Coleman and Hale negotiated with U.S.  
6 Attorney's Office in Little Rock.

7 A That's in September -- I mean, that's  
8 October, November of 1993.

9 Q This is at the beginning?

10 A That's right.

11 Q They had problems with those negotiations.  
12 And then they contacted the Justice Department?

13 A Well --

14 Q You are not sure?

15 A I don't know who they contacted. I am just  
16 saying that -- one day I was in Little Rock and  
17 Fletcher was out and Don Mackay was in.

18 Q Okay. And they also -- when they had  
19 trouble with negotiating this plea, contacted you,  
20 and asked you to intervene?

21 A Mr. Coleman did, that's correct.

22 Q And then when you decided not to intervene,

1 that's a few months later I guess it was, there was a  
2 quiet period, you said and then there was the plea  
3 with the independent counsel?

4 A Just to put it in perspective. Hale was  
5 indicted last week of September of 1993. Fletcher  
6 Jackson was the assistant U.S. Attorney that brought  
7 the indictment. From September until November --  
8 early November of 1993, Coleman was conducting  
9 settlement or plea negotiations with Fletcher, and  
10 then above Fletcher was Mike Johnson as I understand  
11 and Paula Casey.

12 In early November Paula Casey recused  
13 herself and Don Mackay was sent in by the Department  
14 of Justice, by Janet Reno. Mackay comes in right at  
15 the beginning of November. Mackay was there from  
16 November until January 20th, when Fiske was  
17 appointed.

18 Now, from January 20th of '94 up until  
19 February of '94, that's when -- unbeknownst to me and  
20 I had no idea it was going on, I thought Hale was  
21 going to go to trial on February 28th, 1994. And the  
22 day before he went to trial I got a call from the

1 independent counsel's office saying if you are  
2 interested you ought to be in Little Rock tomorrow,  
3 and then it leaked that David Hale was going to plead  
4 guilty.

5 Q So January and February of '94 was the  
6 quiet period you mentioned?

7 A Right.

8 Q And you had been --

9 A And when I say that, I am just saying I  
10 didn't hear anything from Coleman. We were still  
11 preparing for trial. I was out and actually met with  
12 the trial attorney for the independent counsel's  
13 office, Mr. McInerney, and was helping him go through  
14 the SBA files to prepare for trial and providing him  
15 with the witness -- witnesses from the agency in  
16 order to bring a case.

17 Q And Mr. Coleman contacted you during the  
18 time they were negotiating with Little Rock and  
19 before Mackay came to Little Rock?

20 A That's right.

21 Q At the time that CMS was referred to the  
22 Inspector General, did you know about a letter that



1 was sent by Wayne Foren to David Hale notifying him  
2 that CMS was being referred to the IG?

3 A I believe I learned about it the day after.

4 Q The day after?

5 A I may have cleared that letter, but I can't  
6 remember, and the reason is, there were a lot of  
7 other criminal cases going on in the office at the  
8 time. And I thought it -- that we shouldn't be  
9 advising people that matters were being referred to  
10 the Inspector General. And I just can't remember  
11 whether I knew in this case, and I think -- I think  
12 they may have already told him orally and so they  
13 were just confirming it in writing. I think there  
14 were two big criminal cases going on in the office  
15 right then, and I just can't remember which one --  
16 which way this one broke.

17 Q I was going to ask if it is standard  
18 practice to inform a target that his case is being  
19 referred to the Inspector General?

20 A It is a matter of -- it used to be an open  
21 matter, that it was a matter of standard practice in  
22 the investment division to advise people that the

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1 matter had been referred to the Inspector General.

2 But it was right about this time about the  
3 same time we had Capital Management, we had another  
4 big case in Florida where there was an undercover  
5 operation going on, and one of your analysts advised  
6 the target and there was a lot of heated discussion  
7 that that was not the proper practice, and it was  
8 certainly not my recommendation to do that.

9 But at the time when this occurred, this  
10 was not unusual and I don't think it was done in any  
11 bad -- I think it was done more out of -- I can't  
12 explain it.

13 Q Maybe, just being polite? I don't know.

14 A That was their practice. Their practice in  
15 the investment division was to advise people if the  
16 matter got referred to the Inspector General.

17 Q In any event, I guess after SBA sent a  
18 letter to the target saying that their case is being  
19 referred to the IG, there is no secret per se, with  
20 respect to the referral, or the fact of the referral;  
21 is that fair to say?

22 A Yes.



1 Q Was there a press release as well at the  
2 time of the referral?

3 A Oh, no.

4 Q Was there a press release at the time of  
5 the -- during the LaFalce correspondence?

6 A There was not a press release, but there  
7 was a fact sheet prepared to give to the press at the  
8 time we handed out the LaFalce report, and what we  
9 did, we modified the LaFalce letter to go out to the  
10 press, which basically had -- you know, the basic  
11 information, when Capital Management was licensed,  
12 how much leverage did they have, who David Hale was,  
13 that kind of information.

14 Q And the letter you were pointing to was the  
15 November 15 letter?

16 A November 15 letter.

17 Q That you prepared for Mr. Bowles's  
18 signature?

19 A Mr. Bowles, yes, sir.

20 Q And it was sent to Mr. LaFalce on November  
21 15?

22 A That's correct.

1 Q So that fact sheet would have been three or  
2 fewer pages long?

3 A I believe I saw it earlier when we looked  
4 at the material that was sent to Mr. Eggleston. I  
5 think Mr. Spotilia sent him a copy of that fact  
6 sheet.

7 Q Well, obviously that would contain public  
8 information?

9 A Right, that was what we issued to the  
10 press. We had that prepared because if public  
11 communications got any inquiries regarding Capital  
12 Management or David Hale or the report that they  
13 would have that to work from.

14 Q Was the cover letter, the November 15  
15 letter that you sent to LaFalce, considered  
16 confidential?

17 A Yes.

18 Q Well, help me figure out how you draw the  
19 lines between what's confidential and what isn't.  
20 The press release was based on the letter, November  
21 15 letter; is that correct?

22 A That's correct.

1 Q So, how did you determine what would be  
2 confidential in the letter and what would not be?

3 A Well, I guess it wasn't so much the letter  
4 itself, but what we were more concerned with were the  
5 attachments, in that if there was anything in there  
6 that might jeopardize the criminal investigation.

7 Q Okay, so, it is not the letter, per se,  
8 that it was the overall package of information that  
9 you sent to Congressman LaFalce that was considered  
10 confidential?

11 A I believe that's correct because I believe  
12 the letter contained information that was just a  
13 summary of information that was in the attachments.

14 Q Now, at the point that you filed papers  
15 regarding the receivership of CMS, what documents  
16 were included, if any, with whatever pleadings or  
17 submissions you had to file?

18 A At the time, I had opened up a line of  
19 communication with Mr. Coleman, to try to obtain  
20 David Hale's consent to the receivership because in  
21 the federal court action what I was trying to avoid  
22 was a protracted thing where I filed a complaint and

1 had to give him 20 days to answer and so forth. I  
2 also wanted to try and avoid the issue of having to  
3 go for a TRO, because I thought if I could obtain his  
4 consent to receivership I could lock it up and take  
5 it quickly.

6 Q TRO you mean --

7 A Temporary restraining order. And so in the  
8 pleadings itself, we have basically canned,  
9 c-a-n-n-e-d, pleadings that we use -- boilerplate  
10 stuff all the time. And I said to Mr. Coleman that  
11 if he would agree to capital impairment which is how  
12 we look at a company for its financial thing, that  
13 that's what I would put into the pleadings, and David  
14 Hale could plead guilty -- not plead guilty, but  
15 consent to capital impairment, thereby not getting  
16 him into an issue having to say he submitted a false  
17 statement or anything else because my concern at that  
18 point in time was get the company and grab it prior  
19 to indictment.

20 Q So all you had to file was a pleading?

21 A We filed a complaint, a memorandum of law,  
22 a proposed order, and a stipulated settlement, yes.

1 Q Now, were any of those documents contained  
2 in what you submitted to LaFalce?

3 A Yes, sir, that was the submission under tab  
4 number 11, the materials we submitted to Chairman  
5 LaFalce on the 15th.

6 Q Were these pleadings submitted under seal?

7 A No, these were public -- the complaint was  
8 a public document. The complaint was what we filed  
9 in the U.S. District Court.

10 Q So everything under tab 11 would be -- you  
11 could get a copy, anyone could get a copy at federal  
12 court in Little Rock?

13 A Yes, sir. Yes, sir.

14 Q Let me ask you some questions about the  
15 document transfer issue. Now you testified that  
16 Mr. Spotilia is the individual who caused the  
17 documents to be transferred to Mr. Eggleston?

18 A That's correct.

19 Q And you didn't become aware of the document  
20 transfer until after the fact?

21 A That is correct.

22 Q And that you received a call from

1 Mr. Bostwick at roughly the same time you got a call  
2 from Mr. Spotilia?

3 A That is correct.

4 Q Now, in Exhibit 15, which are your  
5 handwritten -- another set of your handwritten notes,  
6 you --

7 MR. GICALE: Which date is this?

8 THE WITNESS: November 17, 1993.

9 BY MR. IVEY:

10 Q You have written on this front page,  
11 "11/17/93, 10:05, Jim Nixon, Dwight Bostwick,  
12 et cetera," at the top?

13 A That's correct.

14 Q Now, under the names and phone numbers, you  
15 have "who should we ask for clearance?" Did you  
16 write that?

17 A Yes, I did.

18 Q And I see a check mark next to it. What  
19 does the check mark signify?

20 A I don't know.

21 Q You don't recall why you checked it off?

22 A Other than these were my notes, to ask who

1 should we ask for clearance, as far as -- when I  
2 wrote this note it was who -- I was asking Allen  
3 Carver who should we ask for clearance about whether  
4 or not we could provide documents to the White  
5 House. That's why I wrote that down. The only thing  
6 I could guess is I checked it off to say I asked him  
7 that question.

8 Q Underneath that you have "ethics officer  
9 writ." What did that refer to?

10 A I think Mr. Spotilia had told me that he  
11 was going to check with the ethics officer, who was  
12 Mr. Teckler, or Mr. Teckler was out of the office or  
13 something like that, and I think that's what that  
14 refers to. That he was going to check with him but  
15 Mr. Teckler was out of the office and so he didn't  
16 check with him and that's why we were checking with  
17 Justice.

18 Q Let me read to you page FBI 949, and this  
19 is from a memorandum dated November 22, 1993,  
20 apparently written by a Fred Verinder,  
21 V-e-r-i-n-d-e-r, apparently with the FBI.

22 The third paragraph on the second page

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1 reads as follows: "During this time period,  
2 Mr. Stephens was not sure of exact date, Mr. Neil  
3 Eggleston, White House general counsel's office,  
4 contacted the general counsel of SBA and requested a  
5 copy of the full report delivered to Mr. LaFalce.  
6 The general counsel contacted the SBA ethics officer  
7 on the propriety of this request and was advised that  
8 there was no ethical problem in delivering this  
9 report to the White House."

10 Did you talk with Mr. Verinder at all?

11 A No, sir.

12 Q Who interviewed you?

13 A Dana Gillis.

14 Q He is with the FBI?

15 A Yes, he is. Yes.

16 Q Who is the ethics officer for the SBA?

17 A Mr. Teckler.

18 Q Do you know --

19 A He is also assisted by a fellow by the name  
20 of Robinson Nunn, N-u-n-n.

21 Q Do you know if Mr. Spotilia spoke to  
22 Mr. Teckler before the documents were sent?



1 A I don't believe he did. I think Mr. --  
2 Mr. Teckler was out of the office that week. What  
3 was the agent's name again?

4 Q Fred?

5 A Verinder.

6 Q With respect to your notes, are you not  
7 sure what ethics officer is being referred to?

8 A It would have referred to Mr. Teckler.  
9 These are my notes. Mr. Spotilia said he was going  
10 to check with the ethics officer or he did. This  
11 Fred Verinder, I don't remember talking to him,  
12 but --

13 Q So, do you know one way or the other if  
14 Mr. Spotilia spoke with Mr. Teckler?

15 A I do not know that for a fact. You will  
16 have to ask Mr. Teckler and Mr. Spotilia.

17 Q So, at the time Mr. Spotilia called you,  
18 did his primary concern seem to be whether the  
19 Justice Department considered this transfer of  
20 documents to be appropriate or not?

21 A He wanted to make sure that, if documents  
22 went to the White House, that this was appropriate.

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1 He did not want to do anything that the Department of  
2 Justice didn't know about or approve of.

3 Q So I take it from your answer that  
4 Mr. Spotilia never asked you to do anything like  
5 covertly provide documents to the White House?

6 A Absolutely not.

7 Q Or covertly provide information to the  
8 White House?

9 A Absolutely not.

10 Q And I think you've also testified that at  
11 some point Mr. Spotilia, and Mr. Bowles as well,  
12 essentially recused themselves from these matters  
13 involving Mr. Hale and CMS?

14 A Yes, he did.

15 Q Did they ever try and influence your  
16 investigative work at all?

17 A No, sir. Absolutely not.

18 Q Did they ever encourage you or pressure you  
19 to do anything that you thought was inappropriate in  
20 any way?

21 A No, sir. Mr. Spotilia, in fact, said, you  
22 know, you have the ball, you run with it, you take it

1 wherever it goes.

2 Q Did you ever get any pressure from anyone  
3 at the White House, Mr. Eggleston in particular?

4 A No, sir.

5 Q No suggestions about how to conduct your  
6 investigation and what types of findings you should  
7 reach?

8 A No. Only contact Mark Stephens ever had  
9 with the White House is as I described with you, Neil  
10 Eggleston getting those documents back. That's the  
11 only contact I ever had with anybody at the White  
12 House.

13 Q Did they ever -- did anyone at the White  
14 House ever mention anything about whether Hale should  
15 be indicted or how he should be treated?

16 A I had no contact with the White House other  
17 than with Mr. Eggleston.

18 Q Is that also true for Mr. Bowles and  
19 Mr. Spotilia, did they say anything about whether  
20 Hale should be indicted or whether he should be  
21 investigated?

22 A I never had any conversations with Erskine

1 Bowles regarding David Hale.

2 Mr. Spotilia and I talked about the case,  
3 as my immediate -- you know, my supervisor and  
4 general counsel, but just -- you know, as supervisor  
5 to subordinate.

6 Q What were the nature of those  
7 conversations?

8 A Well, I reported to him -- he came on board  
9 the week that I went to Capital -- the week that I  
10 went to pick up Capital Management. I think he  
11 started on like a Tuesday or Wednesday or something  
12 like that, and I was literally on my way to pick up  
13 the company.

14 We had obtained the receivership order and  
15 I went into his office and I said look, I am getting  
16 ready to go out to Little Rock to pick up this  
17 company; I don't know what we've got here. There is  
18 a whole lot of criminal activity, you know, I just  
19 want to let you know, I don't know where this thing  
20 is going, but it looks like a bad one.

21 And you know, that's like September 1993.  
22 That's -- I am pretty sure, that's like -- I am

1 almost positive it was the day or two he came on  
2 board, you know, when he came on board. I was on my  
3 way out to Little Rock and he said fine, from that  
4 point, and then -- you know, I would call him  
5 periodically or I would talk to him and say, I know,  
6 you know, look, this is what we've got, you know,  
7 David Hale won't give us documents or I think David  
8 Hale is withholding documents or David Hale is about  
9 to be indicted.

10 Q So it was primarily informational?

11 A Exactly.

12 Q You made strategic decisions?

13 A I made every strategic decision in this  
14 case.

15 Q Now, in the fall, I think it an was October  
16 1993 meeting with Mr. Bowles, you testified that he  
17 said that this case should be handled by career  
18 people and handled just like any other case?

19 A That's correct.

20 Q And he really didn't want to know what was  
21 going on with the case?

22 A That's correct.

1 Q So even though he didn't use the word  
2 recusal at that point, was that essentially what he  
3 did?

4 A Yes.

5 Q De facto recusal at that point?

6 A Yes.

7 Q Now, at the point that you called  
8 Mr. Eggleston, and this being after the Carver  
9 meeting, you told him that you wanted to get the  
10 documents back from the White House?

11 A That's correct.

12 Q Now, which documents were you talking about  
13 at this point?

14 A I was talking about the letter to Chairman  
15 LaFalce dated November 15, 1993, and the three  
16 Redwell -- three Redwells of exhibits.

17 Q All right, now, the exhibits were, you  
18 testified earlier, still essentially confidential  
19 information; is that fair to say?

20 A Some were, some weren't.

21 Q And the cover letter, this was the letter  
22 that I guess had been transformed into a press

1 release or a press statement, and the copies of which  
2 had been disseminated to the press; is that fair?

3 A Yes, sir.

4 Q And I think you've already testified that  
5 the letter, per se, was not confidential at that  
6 point, it was the attachments that were still  
7 confidential, or most of the attachments, not even  
8 all the attachments?

9 A Yes, sir.

10 Q Now, at the time that Mr. Eggleston  
11 returned the documents to you, you were at work on a  
12 Sunday, preparing for a business trip out of town for  
13 the next day?

14 A That's correct, I was on my way to Dallas.

15 Q And I tell you, you had quite a bit to do  
16 to get prepared for Monday, which is why you were in  
17 the office on a Sunday?

18 A I had a closing on a \$28 million SBIC.

19 Q Is that fairly labor intensive work?

20 A Well, I was trying to get the closing  
21 documents together plus trying to -- I work almost  
22 every Sunday, whether -- here or there. I mean, I

1 work a lot of Sundays, and I was in preparing for  
2 that trip and also trying to get caught up on  
3 everything else.

4 Q So when you got the documents from  
5 Mr. Eggleston, you didn't have time to review them  
6 immediately?

7 A No, I did not. I put them in a box and  
8 threw them underneath my desk.

9 Q When you left your office, you locked your  
10 door?

11 A Yes, I did.

12 Q When did you return from Dallas?

13 A Probably back to the office on Wednesday, I  
14 think I went down Monday and came back Tuesday.

15 Q At what point did the Justice Department  
16 come over to meet with you about the documents?

17 A The 24th. According to my notes, the 24th  
18 of November.

19 Q So would that have been the same week that  
20 you got back from Dallas?

21 A Yes. Yes, because I think Mr. Eggleston's  
22 letter to Mr. Spotilia which transmitted them back



1 was dated the 20th, which I think was a Sunday.

2 Q And at the time that the Justice Department  
3 came, you reviewed the documents that Mr. Eggleston  
4 had returned to you?

5 A Yes, I did.

6 Q And you had some familiarity with the  
7 documents because you had just gone through them to  
8 produce the same documents for Mr. LaFalce?

9 A Yes, I did.

10 Q And you had some familiarity with the  
11 documents anyway, because you had a responsibility  
12 for CMS prior to the document production?

13 A Yes, I did.

14 Q And you said the pages were -- the pages in  
15 the production were numbered?

16 A Yes, sir.

17 Q Do you know if they were numbered  
18 consecutively?

19 A Yes, they were.

20 Q So, if the documents had been given --  
21 well, you did get the documents to the FBI; right?

22 A That's correct.

1 Q So if you look through the documents you  
2 would see page 1, page 2, page 3, page 5 you would  
3 know page 4 was missing?

4 A Yes.

5 Q So then it would be relatively easy to see  
6 if any documents were missing from the production?

7 A Yes.

8 Q Now I believe you also discussed  
9 Mr. Bowles's letter to, I believe it was,  
10 Congresswoman Meyers, of the House Small Business  
11 Committee?

12 A Yes, sir.

13 Q And I believe that was the letter in which  
14 he discussed his previous recusal from the Hale CMS  
15 matters?

16 A Yes.

17 Q And I believe you testified that you  
18 thought it was accurate for him to say that he hadn't  
19 received any files because he had only been provided  
20 with a memo to your knowledge?

21 A To my knowledge, that's all he ever  
22 received.

1 Q And the information he had received, to the  
2 best of your knowledge, was for press information,  
3 press inquiries and Congressional inquiries only?

4 A That's correct.

5 Q And it had been brought to his attention,  
6 at least the Congressional inquiry, because it was an  
7 inquiry from Congress, and that's an important thing  
8 for any agency, I would assume?

9 A Yes, sir.

10 Q You mentioned Campobello earlier.

11 And I wanted to find out what role  
12 Campobello had with respect to CMS, if you recall?

13 A Campobello Island was the Presidential  
14 retreat for Franklin Roosevelt; Larry Kuca was an  
15 employee of Campobello Realty. Kuca's job was to  
16 obtain people to go into this real estate development  
17 in Campobello Island which was in Canada. Madison  
18 had a big investment in Campobello Realty. There was  
19 a strip of land that became available on Campobello  
20 Island that Mr. McDougal wanted to purchase to help  
21 enhance the Campobello real estate project. But  
22 Mr. McDougal and Madison -- Madison Guaranty was at

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1 its limit as to what they could do -- this is my  
2 understanding from Mr. Kuca -- was at its limit and  
3 couldn't put any more money into the project.

4 Q And by "limit" you mean, there were caps  
5 set on investments that Madison could --

6 A Could go into, that's correct.

7 Q And those caps were set by, was it the  
8 Federal Home --

9 A Federal Home Loan Bank Board.

10 Mr. Kuca said he met with Mr. McDougal and  
11 Mr. McDougal advised Mr. Kuca that he could introduce  
12 him to David Hale, and that David Hale, through  
13 Capital Management, would be able to provide Mr. Kuca  
14 the money to buy this strip of property. That they  
15 would use to help enhance the Campobello real estate  
16 development.

17 Mr. Kuca was a real estate salesman at  
18 Campobello. This is Mr. Kuca's attorney and Mr. Kuca  
19 has now since -- I don't know all the transaction; I  
20 am not sure I got all the stories from Mr. Kuca.  
21 Mr. Kuca said Mr. Hale loaned him the money to  
22 supposedly buy that strip of property, but ultimately

1 I think that was a vehicle to help Mr. McDougal and  
2 try to expand Madison's interest in the Campobello  
3 Realty.

4 Q Did you --

5 THE WITNESS: Can we take a quick break?

6 MR. IVEY: Sure.

7 (Recess.)

8 BY MR. IVEY:

9 Q Did you learn anything about the identity  
10 of investors in Campobello, other than James  
11 McDougal?

12 A Yes, I did. Mr. Kuca told us the whole  
13 investment story which included Jimmy Jones, the  
14 current owner of the Cowboys.

15 Q Jerry Jones?

16 A Jerry Jones, the current owner of the  
17 Cowboys -- Sheffield Nelson, and there was another  
18 person but I can't recall who.

19 Q Did he tell you anything about the role of  
20 Jones and Nelson, what did he say about their  
21 participation?

22 A Nothing other than they were investors,

1 that McDougal thought that Campobello would be a  
2 great place for the Arkansans to go because it got so  
3 hot in Arkansas and Campobello was so cool, and  
4 monied people from Arkansas would want to go to  
5 Campobello for the summer because it got so hot in  
6 Arkansas. And that was the whole idea behind it and  
7 McDougal would be able to market it and sell it in  
8 Arkansas.

9 Q All he said about Jones and Nelson was they  
10 were investors?

11 A They were investors and McDougal thought it  
12 was such a good idea that he bought out Jones and  
13 Nelson. And Jones, in fact, got out of this and  
14 decided to go invest in the Cowboys.

15 Q Go figure.

16 A I guess it was a better deal.

17 Q Now, I wanted to ask you a question about  
18 this GAO report. Basically it concludes that there  
19 was an inadequate oversight by SBA of CMS during most  
20 of the 1980s. I guess it refers to a series of,  
21 quote, unquote, red flags that should have gotten the  
22 attention of the SBA with respect to, you know,

1 fraudulent or suspicious activity. And I wanted to  
2 get your thoughts on that.

3 A Do I agree with that statement? Is that  
4 your question?

5 Q Sure.

6 A Yes. I think the agency should have picked  
7 it up earlier.

8 Q I appreciate your candor, I must say.  
9 What red flags did you think were missed?

10 A The 1991 examination picked up a lot of the  
11 swaps, that was when the swaps were starting. And  
12 there was also an issue regarding -- just things that  
13 you come to understand. For example, any time you  
14 see cashier's checks being bought, that should be a  
15 red flag to you.

16 The other red flag was the fact that there  
17 were about eight or nine businesses all running out  
18 of 1910 Grant Street, which was the same location  
19 where David Hale had his office. The other thing,  
20 for example, on the 1988 leverage, Mr. Newell had  
21 picked up the fact that there were all these  
22 nonperforming accounts, and so they wrote David Hale

1 a letter saying we notice you have all these  
2 nonperforming accounts. And lo and behold, David  
3 Hale writes back and says don't worry about them  
4 anymore, they are all paying now. And the reason is  
5 there is another transaction, which I didn't discuss  
6 earlier, which was another raid on Mrs. Townsend's  
7 account to clean up another set of investments.

8 So, I think had the agency been looking a  
9 little closer -- and I think the other thing which  
10 has been corrected now is you do site visits to small  
11 businesses and part of the problem was they weren't  
12 doing any site visits.

13 Q Okay. Now, these activities, these red  
14 flags occurred during what period of time, would you  
15 say?

16 A I would say from 1987 on was when it began  
17 to really become apparent. And of course, I have the  
18 benefit of hindsight, but that's when things really  
19 started to -- if you took a snapshot, that's when all  
20 of it started coming together.

21 Q Well, you joined the SBA at around '87, '88  
22 was it?



1 A Yes.

2 Q Was it your sense that these oversights  
3 were politically connected, politically motivated in  
4 any way or was it just mistakes?

5 A It was mistakes. It was not politically  
6 connected. At that time, the examination function  
7 rested with the Inspector General. It wasn't even a  
8 program function. It is today but it wasn't at that  
9 point in time.

10 Q Is it fair to say that, in your view, the  
11 SBA's treatment of CMS from start to finish, at least  
12 during your tenure there, has been influenced by  
13 political pressures of any sort?

14 A No, sir.

15 MR. IVEY: I have nothing further at this  
16 time.

17 EXAMINATION

18 BY MR. GICALE:

19 Q Just a few questions. First of all, with  
20 respect to the documents that you said you had  
21 forwarded copies of to Mr. LaFalce, the attachments  
22 to Mr. LaFalce and to the -- not you, your agency had

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1 forwarded to the White House, you said you knew when  
2 you received them back that you had all of them  
3 because they were numbered consecutively?

4 MR. IVEY: I don't think that's his  
5 testimony. I think that mischaracterizes his  
6 testimony.

7 BY MR. GICALE:

8 Q I believe you testified that the documents  
9 were numbered consecutively; is that correct?

10 A Yes, sir.

11 Let me explain because I don't want there  
12 to be any confusion about what happened here.

13 We were trying to prepare documents to  
14 LaFalce. He wrote in on November the 4th and he gave  
15 us a deadline of November the 15th, and I was told to  
16 get them done and get them copied and get them up  
17 there. I was told to number those documents, but our  
18 Bates stamp wasn't working, and we ended up writing  
19 handwriting on a number of -- at least one copy, and  
20 the copy that went to LaFalce has Bates on it.

21 Q Bates or handnumbered?

22 A I call it Bates number but handwritten

1 number. The copy I will produce to you tomorrow will  
2 have numbers on there.

3 Q So that will be a copy of what you sent to  
4 LaFalce?

5 A That is correct.

6 Q The copy that went to the White House?

7 A I believe was also Bates numbered, but I  
8 don't know that for sure because I haven't seen that  
9 copy for two or three years, but as I recall, I think  
10 it was. I don't know for sure as we sit here.

11 Q The reason I ask you that is because --

12 A This copy is not Bates -- I notice this one  
13 doesn't have a number on it. What we were doing is  
14 we made five or six copies or whatever it was. I  
15 know the copy that went to LaFalce had a number on  
16 it.

17 Q So the attachments were numbered in some  
18 consecutive fashion?

19 A That's correct.

20 Q And when you say "this," for the  
21 stenographer, for the record, you are referring to  
22 starting with Exhibit 2890 which I represent to you

1 is the Department of Justice production, and what  
2 you've earlier had an opportunity to review, and goes  
3 through to document 4090; correct?

4 A That's correct.

5 Q As they have a Bates number from the  
6 Department of Justice; they don't have the number you  
7 are referring to that went to LaFalce?

8 A That's right.

9 Q You don't know whether or not the White  
10 House copies had the consecutive numbering?

11 A That's right. Whoever has those documents  
12 now, I think it is the independent counsel, whoever.

13 Q Mr. Ivey said if they were numbered  
14 consecutively, you would know whether -- you would  
15 know something was missing. If for instance certain  
16 numbered pages were absent, they didn't have  
17 consecutive numbers; correct?

18 A That's correct.

19 Q That would only be the case if the set that  
20 you received were numbered?

21 A That's correct.

22 Q And therefore, what you will present to us

1 will be something that's numbered, but you can't say  
2 today whether or not the set you got back from the  
3 White House was a numbered set?

4 A I do not remember now.

5 Q And your agency did have sets that were not  
6 numbered?

7 A That's correct.

8 Q And I think you also testified that your  
9 review of these documents was fairly quick?

10 A I didn't sit and look at every page. I was  
11 in the conference room and I went through it and I  
12 pulled them out to look and went through them, you  
13 know, in the ordinary course, but I did not look and  
14 count every page that was there. No, I did not.

15 Q So you did not compare them to the original  
16 set of documents and you did not inventory them?

17 A That is correct.

18 Q Now, the documents that the attachments --  
19 and referring to exhibit number 28894, once again --

20 A That's Bates number, not exhibit number.

21 Q I'm sorry, Bates number. One of the item  
22 numbers, number 10, was the memorandum referring the

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1 matter to the Inspector General; correct?

2 A That's correct.

3 Q Mr. Ivey earlier asked you about which of  
4 the documents were confidential and which of them  
5 were made a public matter. Would the memorandum  
6 referring this to the Inspector General, would that  
7 have been a confidential document?

8 A Yes.

9 Q Going through this list, 1 through 12,  
10 which of these items would have been confidential and  
11 which would have been a matter of public record?

12 A Document number 1, which is the SBA license  
13 application form 415.

14 Q Is what?

15 A Is confidential. Portions of it. I mean  
16 there are -- for example, the license application  
17 will have the name and address of the SBIC, that's a  
18 public document. If you've got it in FOIA, you would  
19 get some of it but not everything.

20 Number 2 is David Hale's statement of  
21 personal financial -- personal history and  
22 qualification. Again, some of that would be

1 confidential and some would not be.

2 Q Okay.

3 A Number 3, schedule and entitled changes in  
4 private capital and/or operator for Capital  
5 Management, I believe that was a document that we  
6 created. I believe it was like literally a schedule  
7 we created from information and looking at the file.

8 Q Would that be made a public record?

9 A Yes. Number 4, schedule entitled leverage  
10 received from SBA by Capital Management Services,  
11 again, I believe that was a document that we  
12 prepared, a schedule.

13 Q Would that have been a matter of public  
14 record?

15 A When you say "public record," there wasn't  
16 any public record of it. It was a compilation  
17 schedule of the material, that material would not be  
18 confidential.

19 I have to come at it the other way, because  
20 that was the money that Capital Management received  
21 from the government, it would be a listing and the  
22 dates when they received it.

1 Q And that was not --

2 A That would not be confidential.

3 Q Okay.

4 A Number 5, the annual report SBA form 468  
5 for Capital Management from 1979 to 1992, we would  
6 have considered that to be confidential because that  
7 will be the financial statements of the company.

8 Q Okay.

9 A Number 6, the list of financings based upon  
10 the SBA form 1031s, the list itself that we prepare  
11 which just had the name of the companies would not be  
12 confidential; that's just our compilation. The  
13 material contained on the 1031, depending what was on  
14 that document, could be confidential.

15 So, for example, the name of the company,  
16 Arkansas Commercial Realty, would not be  
17 confidential, but if it had financial information  
18 pertaining to that, that could be considered  
19 confidential. So you would have to look at each 1031  
20 to determine what would be confidential.

21 Number 6 is the 1031s by the year of  
22 financing. And number 7 is by the name of the small



1 business concern, so it is the same information, it  
2 is just two different ways.

3 Q So some of it might be confidential and  
4 some would not?

5 A Yes. Number 8 is just all the 1031s that  
6 were submitted to SBA.

7 Q And some of that would be confidential and  
8 some would not?

9 A Can I have one minute just to check the  
10 document?

11 Q Sure.

12 A Just for clarification sake, Exhibit 6 is  
13 just a list that was prepared by program support, you  
14 will see it is dated November 12, which is a --

15 Q It is a compilation?

16 A -- compilation, so all that is -- that  
17 would be public information. You could give that to  
18 anybody, because that just shows what Capital  
19 Management -- same thing on Exhibit Number 7, it is  
20 just a list of the names of companies that allegedly  
21 received financing from Capital Management and has  
22 their SIC code, and their dates.

1 Q All right, again -- and by the way you are  
2 pointing to Bates number 2984?

3 A 2984 which would have been under tab 6 in  
4 the LaFalce production. Under tab number 7 -- I  
5 apologize. No, I was right, number -- tab number 7.  
6 Tab number 8 -- Exhibit 8 is the actual 1031 itself.

7 Q Would that be confidential or not?

8 A Some of it would be, some wouldn't. For  
9 example, we are looking at document number 2987,  
10 which is the 1031 of Arkansas Commercial Realty. The  
11 fact that it is listed at 1910 Grant Street is public  
12 information. The fact that it is in Little Rock, all  
13 of that is public information, even the fact that  
14 they received \$150,000 is public.

15 Sometimes you will see in the block to the  
16 right of the document up here where it has  
17 prefinancing information, sometimes that information  
18 will be filled out, if the SBIC is doing its job,  
19 that could be considered confidential, because that  
20 would have, you know, their profit and loss and so  
21 forth.

22 Q What's the next item on the list?

1 A Item number 9 is the audit reports for  
2 Capital Management, audit reports.

3 Q And were those confidential?

4 A Yes. The material contained in there,  
5 again, if it was requested under the Freedom of  
6 Information Act, some of the material would be  
7 disclosed and some would not be. You would have to,  
8 again, go through the material in reference to the  
9 companies.

10 Q And again, item number 10 is the report to  
11 the Inspector General?

12 A That would be confidential.

13 Q Okay. And item number 11?

14 A Number 11 is a public document filed in the  
15 Western District of Arkansas. And number 12 is a  
16 public document. It is the indictment of David  
17 Hale.

18 Q Now, do you know, when Mr. Spotilia recused  
19 himself from the matter in January, February 1994, do  
20 you know whether or not he knew the Clintons or David  
21 Hale or Mr. Tucker or the McDougals?

22 A Do I know if he knows those people?

1 Q Yes.

2 A I know he knows President Clinton.

3 Q Do you know what kind of relationship he  
4 has with President Clinton?

5 A I believe that they were on the same floor  
6 at Georgetown. He knew him from college basically.

7 Q How do you know this?

8 A I don't recall if Mr. Spotilia ever told me  
9 personally, but it was known around the agency that  
10 he was a friend of -- that he knew Mr. Clinton or  
11 President Clinton from college.

12 Q And do you know whether or not his  
13 relationship with him continued on after college?

14 A Yes. Yes, I know they did.

15 Q And how do you know that? And what type of  
16 relationship?

17 A Mr. Spotilia told me at one point he had  
18 been friends with the Clintons for 20 years.

19 Q Do you know when that came up, when he said  
20 that to you?

21 A Just in general discussion. Nothing  
22 special.

1 Q Did he talk about socializing with them on  
2 any specific occasions?

3 A He has pictures with him and the Clintons  
4 at the White House, in his office prominently  
5 displayed.

6 Q Do you know whether or not Mr. Spotilia  
7 knew David Hale?

8 A I do not know if he knows David Hale but I  
9 have no reason to think that he does know David  
10 Hale.

11 Q No reason to think that he?

12 A That he does know David Hale.

13 Q What about Governor Tucker?

14 A Same thing there. I don't know if he knows  
15 Governor Tucker but I have no reason to believe that  
16 he does.

17 Q And the McDougals?

18 A Same answer. I don't know if he knows them  
19 but I have no reason to believe that he does.

20 Q Did Mr. Spotilia say he was recusing  
21 himself because he knows the Clintons and he was a  
22 friend of theirs for 20 years?

1 A Again, at the time in early 1994, this was  
2 when the Altman and the RTC thing was really heating  
3 up, and he said I want to stay out of it altogether.  
4 He really had very little involvement.

5 Frankly, from the time of the Neil  
6 Eggleston thing through there, he had very little --  
7 he may have made a passing statement in a staff  
8 meeting that I was going to Little Rock or something  
9 like that, but very little contact.

10 Q When you say from the point of the  
11 Eggleston matter, you mean after the Eggleston matter  
12 and you mean after your agency was told by Justice  
13 Department to retrieve the documents? From that  
14 point forward he was not involved as much; is that  
15 correct?

16 A That is correct, sir.

17 Q Would you say the agency was concerned  
18 about the appearances that occurred by turning over  
19 documents to the White House at that point?

20 A Well, no. I mean I can't speak for the  
21 whole agency. I can only speak for --

22 Q Mr. Spotilia?

1 A Quite frankly, we thought it was much ado  
2 about nothing. We weren't trying to hide anything.  
3 He told me to make the call and find out if there was  
4 a problem, turn the documents over to them. They  
5 said no, get them back. We got them back, we thought  
6 that was going to be the end of it.

7 Q He asked you about that after he turned  
8 over the documents?

9 A That's absolutely correct, sir.

10 Q Do you know whether or not Mr. Bowles had a  
11 meeting with Mr. McLarty with respect to the referral  
12 of this matter to -- strike that.

13 Are you aware of the fact that Mr. Foren  
14 briefed Mr. Bowles with respect to referring this  
15 matter to the Inspector General in May of 1993?

16 A I did not know about that until Wayne Foren  
17 testified before the House Banking Committee.

18 Q That he had briefed Mr. Bowles?

19 A About or on anything Mr. McLarty, I knew he  
20 was briefing Mr. Bowles but I didn't know about  
21 Mr. McLarty.

22 Q So do you know whether or not Mr. Bowles

1 met with Mr. McLarty?

2 A Do I have any independent knowledge of  
3 that? No, sir, I do not.

4 Q The only way you testified that you know  
5 about it is through the testimony of Mr. Foren; is  
6 that correct?

7 A That's correct, in front of the House  
8 Banking Committee.

9 Q Now, one of the first questions Mr. Ivey  
10 asked you was with respect to the -- whether or not  
11 you determined that Whitewater -- strike that --  
12 whether or not you determined through your  
13 examination whether Capital Management Services' and  
14 therefore SBA moneys went from this company to  
15 Whitewater Development, and you -- and your answer  
16 was?

17 A I was uncertain then and I am -- it has  
18 been a long time since I looked at that. I can write  
19 you a letter but I don't remember sitting here.

20 Q Was there a point in time when you did  
21 trace the money?

22 A Yes. What I did is I went to RTC with the



1 subpoena and I asked for all the bank records of Jim  
2 and Sue McDougal and Master Marketing. And I got the  
3 bank records in and I went through them to look for  
4 the disbursements.

5 Q Do you recall finding that money from the  
6 \$300,000 loan to Susan McDougal went into the  
7 McDougal account and eventually some of those moneys  
8 went to pay off another loan, and moneys from that  
9 loan going ultimately to another entity, a  
10 McDougal-controlled entity and into Whitewater?

11 A Let me answer that question, I will tell  
12 you what I found. We traced money that went into  
13 Master Marketing and went out and went into Susan  
14 McDougal's account. And then there were moneys that  
15 went out to Flowerwood Farms. And there was a  
16 payment to International Paper for a second piece of  
17 real estate in southern Arkansas which was purchased  
18 for Whitewater Development. That is what we were  
19 looking -- that's what I found and that's what we  
20 looked for.

21 When they talked about Whitewater in the  
22 newspaper, there was actually two different pieces of

---

1 property. There was a piece of property where the  
2 Clintons were, supposedly, going to build their  
3 retirement home in like north Arkansas but the money  
4 that went, that was diverted out of Master Marketing  
5 went to International Paper, to buy a second piece of  
6 property in southern Arkansas.

7 Q Some of the money?

8 A Some of the money. I mean I am just saying  
9 there's a big disparity as to where the money went --  
10 not disparity but the money went to a lot of  
11 different places.

12 Q When Mr. Ivey referenced, asked you the  
13 question about your notes of October 31, with -- in  
14 reference to your conversation with Fletcher Jackson  
15 and when he said to you, did Jackson say there is  
16 nothing in Master showing 300,000 went to Whitewater,  
17 were you also aware of the fact that in those notes  
18 it indicated that Fletcher Jackson, or there was --  
19 the RTC only had copies of checks through 1985 at  
20 that point?

21 A That's right, that's what he told me. He  
22 could not find anything showing that money went to

1 Whitewater at that point in time, which was October  
2 of 1993.

3 Q So, since that time, other records have  
4 been obtained, that were obtained, and you were able  
5 to trace some moneys; is that correct?

6 A That's correct.

7 Q The documents that you received from David  
8 Hale, the listing which was in the production, those  
9 were inventoried and -- were any of those documents,  
10 those inventories conveyed, copies of those  
11 inventories conveyed to Mr. Spotilia?

12 A No, sir.

13 Q Do you know where they were kept?

14 A They were kept in my office, with the --

15 Q Here in Washington?

16 A Yes. With the file.

17 Q Did you discuss the inventory of those  
18 documents with Mr. Spotilia?

19 A No, sir. At one point, it was -- at one  
20 point, Chairman LaFalce requested, I believe, a copy  
21 of that itemization and I gave it to the Chairman.

22 Q Was that information ever conveyed to the

1 White House?

2 A I don't think -- not that I know of.

3 Q And again I am referring to the listing of  
4 documents that you transported from Hale's office to  
5 the FBI?

6 A To my knowledge, nothing was transmitted to  
7 the White House, other than the November 15th and the  
8 attachments. That's the only thing that I personally  
9 have any knowledge of, as I sit here today.

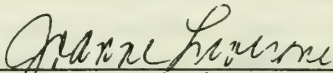
10 MR. GICALE: I have nothing further.

11 MR. IVEY: Nothing further.

12 (Whereupon, at 8:40 p.m., the deposition  
13 was adjourned.)  
14  
15

-----  
16 MARK K. STEPHENS  
17  
18  
19  
20  
21  
22

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000

Jul 32 10 17 PM '93

*(Account of settlement in  
Seprenica.  
3rd Tuesday in September)*

Mr. Roger Peterson  
Small Bus. Administration  
409 3rd Street, S.W.  
Investment Division, 6th Floor  
Washington, D.C., 20416

Re: Capital-Management Services, Inc.  
06-06-5207

Dear Mr. Peterson:

The transactions I told you about runs like this.

A stock broker in Little Rock, Arkansas, had control of an account of some people from Louisiana, which had over a million in cash in it. On November 4, 1988, he transferred from the account \$800,000.00, to Capital-Management Services, Inc., \$400,000.00, went into a savings account, and \$400,000.00, in the form of cashier checks "paid" off two delinquent loans Capital-Management Services, Inc., had on its' books and made a payment on a third. Effect - debit \$800,000.00 cash, credit loans and accrued interest \$400,000.00 and credit capital \$400,000.00 On the basis of new capital, now documented by the Savings account and the issuance of new stock, David Hale applied for \$900,000.00 in SBA leverage.

Over the course of the next week, David Hale created three new "loan/equity positions" in three "companies" and funded them in a total of \$800,000.00. The "borrowers" then cut checks totaling \$800,000.00 to return the money to the brokerage account. See attached chart.

I view this as \$400,000.00 bogus private capital and three bogus "loan/equities". What is SBA's view?

I think something similar occurred in March, 1986, on a \$1,500,000.00 leverage on the basis of \$502,000.00 in new "capital". I need all the documents that can be located on the 1986 leverage.

Also, in early 1988, David Hale applied for leverage and was turned down. Please send what can be found about this.



Page 2  
July 29, 1993

Also, I would like the material on the 1983 leverage.

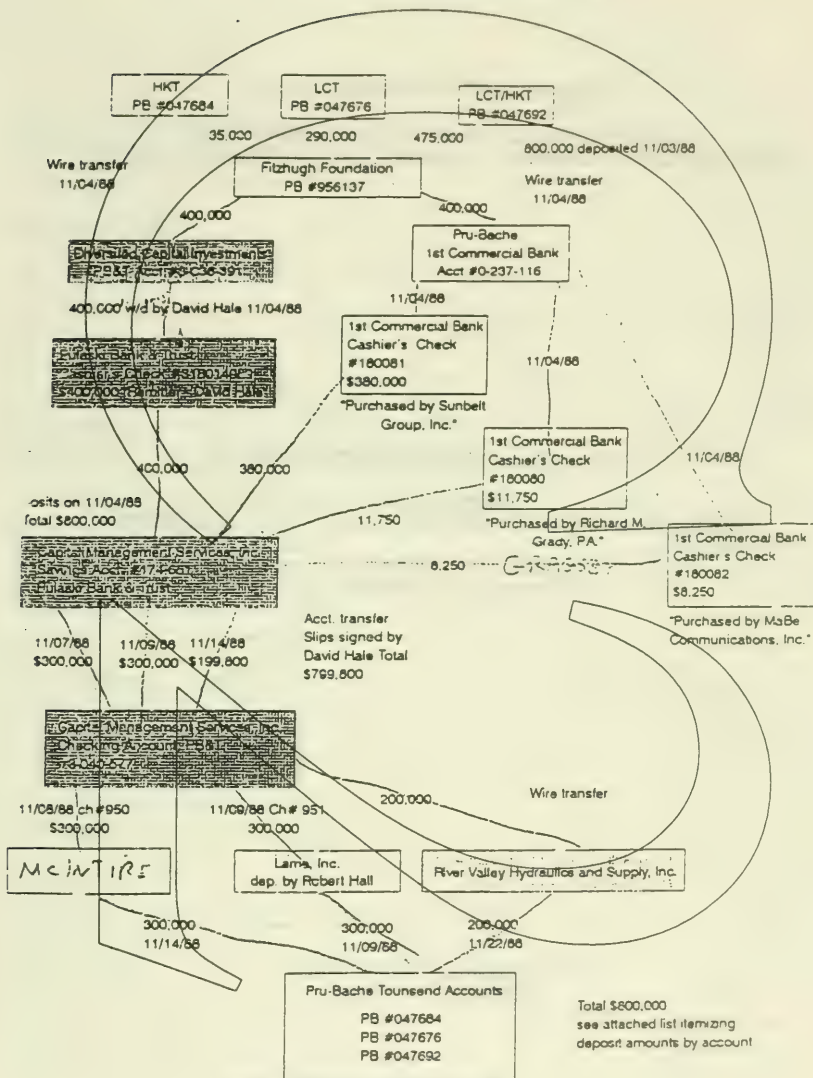
Yours truly,

RICHARD M. PENCE, JR.  
United States Attorney

FLETCHER JACKSON  
Assistant U.S. Attorney

FJ/skg  
Encls.

## Transaction One

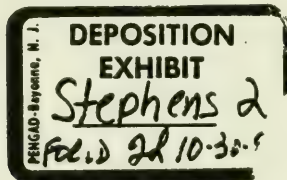


BRIEFING BOOK PROVIDED TO THE  
SENATE SPECIAL COMMITTEE TO INVESTIGATE  
WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

IN PREPARATION FOR THE DEPOSITION OF  
WAYNE FOREN  
FORMER SBA ASSOCIATE ADMINISTRATOR FOR INVESTMENT

TO BE HELD ON OCTOBER 26, 1995  
AT ROOM 534 DIRKSEN SOB

SUBMITTED BY WAYNE FOREN  
OCTOBER 24, 1995



October 24, 1995

Viet Dinh  
Special Committee on Whitewater  
534 Dirksen Senate Office Building  
Washington, DC 20510

Dear Mr. Dinh:

This is in response to your request.

I understand that my deposition on matters relating to Capital Management is now scheduled for Thursday, October 26 at 9:30 a.m.

You also requested that I furnish you a copy of information provided to the House Banking & Financial Services Committee. Enclosed is the information you requested. I have also enclosed a brief profile of Capital Management that may be helpful. The profile was developed after the House hearing.

If you have any questions concerning this matter, please call me on (703) 461-2723.

Sincerely,

*Wayne Foren*  
Wayne Foren

enclosure



## SUMMARY

Capital Management was licensed in 1978 as a Specialized Small Business Investment Company (SSBIC) with \$500,000 private capital. SSBICs may only provide financial assistance to small business concerns owned by persons who are socially or economically disadvantaged. These businesses are to be independently owned and managed and the funds are to be used for the sound financing of the small business and its growth, modernization or expansion.

From 1978 to 1991, Capital Management increased its private capital to \$1.5 million and obtained \$3.4 million in financial assistance (leverage) from SBA. During this period, Capital Management supposedly made 79 financings to eligible small business concerns totaling \$9.8 million. Most of these financings were probably bogus.

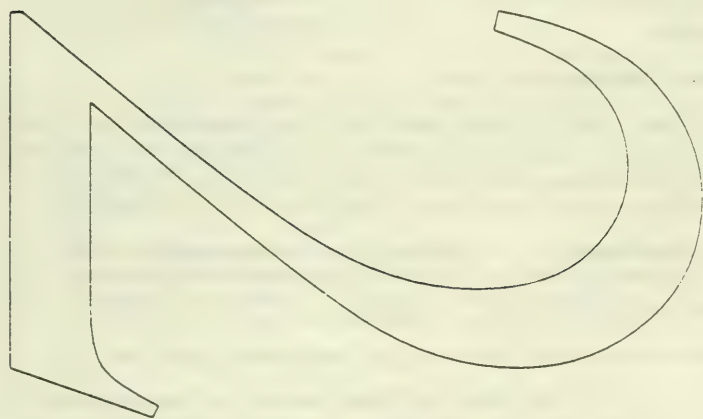
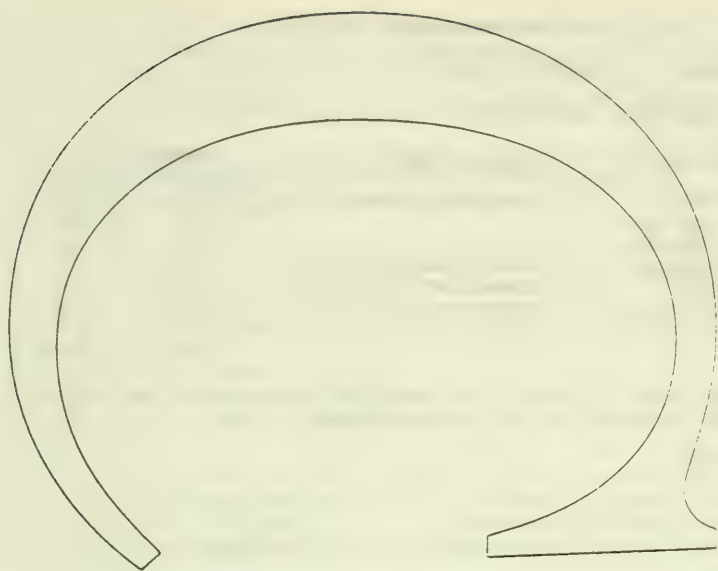
In 1992, David Hale claimed that Capital Management had received \$13.8 million in donated assets and then he wanted \$6 million in leverage based on this capital increase.

As Associate Administrator for Investment (head of the SBIC Program), I tried to give Capital Management every consideration but at the same time required the licensee to comply with Program requirements. On May 5, 1993, it became apparent to me that David Hale was attempting to defraud SBA; therefore, I referred the matter to the SBA Inspector General to determine the source of the donated assets and to assure that these assets were unencumbered or restricted.

This matter was referred on to the Justice Department and the FBI Agent assigned to the case disclosed to our staff that Capital Management's 1988 capital increase was bogus. This transaction was the basis for David Hale's 1993 indictment and SBA's taking Capital Management into receivership in September 1993. As a result of the Whitewater hearing in the House, it became apparent that the 1986 capital increase was also bogus.

Enclosed is a brief profile relating to the capital increases and leverage as well as Mr. Hale's attempt to cover up bogus loans and investments by exchanging assets.

Also enclosed is a chronology of certain events together with supporting documents. These documents were provided to the House Banking and Financial Services Committee.



## CAPITAL MANAGEMENT PROFILE

DATE LICENSED: March 14, 1978

OFFICERS, DIRECTORS, AND OWNERS: (as of 11/30/92)

NAME	TITLE	OWNERSHIP	
		Shares	Percent
David Hale	President/Director	2,150	70.8%
Linda Sue Hale		325	11.6%
Hazel Dennis		325	11.6%
Tom Anderson *	Vice President/Dir.	0	0
James Hall	Treasurer/Director	0	0%
George Ivory	Secretary/Director	0	0%
total		2,800	100%

\* On March 29, 1993, Tom Anderson resigned as an officer and director of Capital Management.

## CAPITALIZATION:

03/14/78	Initial capital	\$ 500,000
03/25/86	Capital increase 1	502,000
11/04/88	Capital Increase 2	400,000
total		\$ 1,402,000
09/30/92	Capital Increase 3	13,800,000
total		\$15,202,000

## 1. Dean Paul Transaction:

On February 28, 1986, Dean Paul borrowed \$825,000 from Madison Guarantee as an agent for David Hale and Capital Management. The purpose of the loan was to purchase a failed restaurant and two parcels of land. Properties were valued at more than three times their true value.

Loan proceeds net of outstanding mortgages were \$502,000 which were deposited in Capital Management's account. On 3/25/86, Peoples Bank & Trust Co. issued a letter to SBA claiming funds were on deposit and unrestricted.

From these proceeds, Capital Management made two loans:

On 2/28/86, \$150,000 was loaned to Castle Water & Sewer which was owned by Governor Tucker who at the time was Madison Guarantee's lawyer.

On 4/03/86, \$300,000 was loaned to Masters Marketing which was owned by Susan McDougal, wife of Jim McDougal.

NOTE: Neither of these loans were repaid. Mr. Hale exchanged the ~~Masters Marketing~~ asset for a note from Cole Masonry (see below). Mr. Cole told the SBA examiners that he needed to do the exchange to "clean up his books".

NOTE: In 1992 when I became aware that Hale was swapping assets (one portfolio security for another), I directed him in writing to cease the practice.

Stephen Smith loan: On 2/21/86, Mr. Smith received a \$65,000 loan from Capital Management to provide working capital for his communication company. He actually used the funds to pay off a mortgage on a property owned by Kings River Land which was a partnership composed of:

- o Stephen Smith,
- o Austin Smith (Stephen's Father),
- o James McDougal, and
- o Jim Guy Tucker.

It is noted that Stephen Smith had been a Special Assistant to Governor Clinton.

2. 1988 Bogus \$800,000 transactions:

- o On 11/04/88, a Louisiana stockbroker fraudulently transferred \$800,000 from a client's account to Capital Management:

- \$400,000 went into a savings account and represented as a capital increase. Mr. Hale represented that these funds were the proceeds of the sale of his wife's small commercial center.

- \$400,000 were in the form of cashier checks to apply to three delinquent loans:

Sunbelt Group, Inc.	\$380,000
Richard M. Grasby, PA	11,750
MaBe Communications, Inc.	<u>8,250</u>
Total	\$400,000



- o Funds were returned to the brokerage account in November 1988 through three bogus accounts as follows:

<u>DATES</u>		<u>PORTFOLIO CONCERN</u>	<u>AMOUNT</u>
<u>FROM CM</u>	<u>FROM SBC</u>		
11/8/88	11/14/88	McIntire Numismatic Auctions, Inc.	\$300,000
11/9/88	11/09/88	Lame, Inc.	300,000
11/9/88	11/22/88	River Valley Hydraulics & Supply, Inc.	<u>200,000</u>
total			\$800,000

NOTE: None of these loan/equity positions were converted to cash. Rather, they were exchanged for other securities issued by questionable entities at questionable values (see below).

3. 1992 Donated Assets represented as a Capital Contribution:

- o On 9/30/92, Capital Management represented that two assets were donated valued at \$13.8 million as follows:

	<u>MILLIONS</u>
Pool certificate of medical receivables	\$14.5
Capital stock of National Building Supply	<u>3.3</u>
total	\$13.8

Assets were donated by Concorde International, Ltd., an off-shore private investment company in the Grand Cayman Islands.

LEVERAGE:

	<u>APPLICATION DATE</u>	<u>FUNDING DATE</u>	<u>DEBENTURES</u>	<u>PREFERRED STOCK</u>
		1980		\$ 500,000
1)		12/09/83	\$ 500,000	
		09/10/86	1,000,000	500,000
2)	11/04/88	03/30/89	<u>500,000</u>	<u>400,000</u>
	total provided		\$2,000,000	\$1,400,000
3)	09/30/92	not funded		1,400,000
	09/30/92	not funded		<u>6,000,000</u>

NOTES:

- 1) Based on 1986 bogus capital increase.
- 2) Based on 1988 bogus capital increase.
- 3) Based on 1992 bogus capital increase.

## EXCHANGED PORTFOLIO SECURITIES:

A. On 2/15/91 the following securities were exchanged:

<u>TRANSFERRED</u>		<u>RECEIVED</u>	
McIntire	\$300,000	Med-A-Corp.	\$420,000
Southern Foods	<u>113,650</u>		
total	\$413,650	total	\$420,000

B. On 4/12/91, the following securities were exchanged:

<u>TRANSFERRED</u>		<u>RECEIVED</u>	
Masters Marketing	\$380,622	Cole Masonry	\$400,000
Insurance Econ.	<u>23,301</u>		
total	\$403,923	total	\$400,000

C. On 4/15/91, the following securities were exchanged:

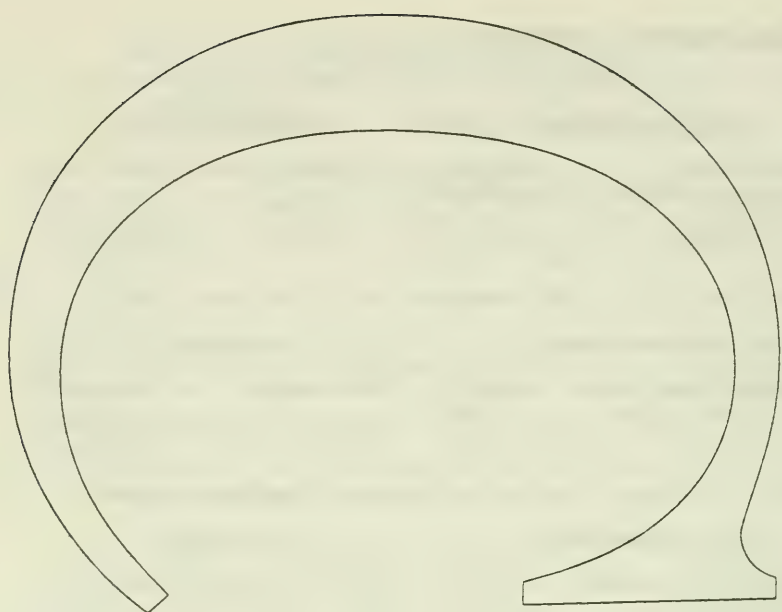
<u>TRANSFERRED</u>		<u>RECEIVED</u>	
Retail Liquidators	\$389,776	Converging Systems	\$400,000
River Valley	248,413	Cyberspace Corp.	350,000
Lame, Inc.	300,000	Patient Commo. Inc.	250,000
Arkansas Comm. Real.	<u>58,425</u>		
total	\$938,189	total	\$1,000,000

C. On 6/1/92, the following securities were exchanged:

<u>TRANSFERRED</u>		<u>RECEIVED</u>	
Converging Systems	\$400,000	Ntl. Bldg. Supply	\$2,514,000
Cyberspace Corp.	350,000		
Patient Commo.	250,000		
Liberty Mortgage	291,000		
Property Care	314,000		
Midwest Consultant	460,000		
Cole Masonry	<u>449,000</u>		
total	\$2,514,000	total	\$2,514,000

D. On 3/15/93, the following securities were exchanged:

<u>TRANSFERRED</u>		<u>RECEIVED</u>	
Med-A-Corp.	\$420,000	FSA Fin. Serv.	\$420,000



CAPITAL MANAGEMENT  
CHRONOLOGY OF EVENTS

09/30/92 David Hale notified SBA that Capital Management's private capital was increased by \$13.8 million by donated assets.

09/15/92 Capital Management submitted an application for \$6 million of leverage in the form of preferred stock.

A. 10/28/92 Certified letter to David Hale from Phyllis Dawson returning the licensee's application for \$6 Million of leverage in the form of preferred stock.

Requested information on donated assets which formed the basis for the \$13.8 million capital increase:

MILLION

\$11.5	Pool certificate of medical receivables
<u>2.5</u>	National Building Supply unrestricted, registered common stock

\$13.8 TOTAL

B. 11/12/92 OGC opinion on Capitalization & Borrowings of SBICs: Inclusion of Donated Assets in Private Capital for Leverage Purposes.

OGC concluded that donated assets are not to be included in regulatory capital until they are converted to cash.

C. 12/08/92 Certified letter to Thomas Anderson, Capital Management, from Marvin Klapp:

- o Conditional approval of the \$13.8 million capital increase but excluding the increase from Regulatory Capital until converted to cash.
- o Approval of exchange of assets subject to the assets received being converted to cash within 120 days.
- o Return of the \$6 million application for funding because the licensee was ineligible for such leverage.
- o Notice that the \$1.4 million application for funding was being processed



- 12/09/92 Mr. Hale was notified that approval of leverage would be subject to a current regulatory compliance of Capital Management.
- 02/19/93 Meeting in AA/I's office with David Hale concerning the capital increase and leverage application.
- D. 03/11/93 Examination report on Capital Management issued. Regarding the source of the contributed non-cash assets,
- Central Arkansas Community Development Corporation Development Company (CACDC) was the source of the contributed assets: National Building Supply (NBS) stock and the Medical Receivable pool certificate.
  - A September 30, 1992, letter to CACDC from First Dominion Financial Group, the custodian holding the pool certificate, stated the pool certificate had been delivered by Concorde International, Ltd. (Concorde) which allegedly was an off-shore private investment company domiciled in the Grand Cayman Islands.
  - Concorde probably was the source of the NBS stock.
  - Thom Anderson, president of CACDC, refused to provide any information concerning the source of contributed assets included whether Concorde was the source
- 03/26/93 Letter to David Hale regrading Examination Report findings.
- E. 04/20/93 Letter from David Hale regarding the Examination Report findings.
- F. 05/05/93 Briefing of Erskine Bowles and referral of Capital Management to the Office of Inspector General for Investigation.
- G. 05/05/93 Chronology of events regarding Capital Management's application for leverage and subsequent referral to SBA's OIG for investigation.
- H. 05/05/93 Letter to David Hale from Joseph Newell (faxed) acknowledging receipt of Mr. Hale's April 20, 1993, letter regarding SBA's March 26, 1993, and April 19, 1993 letters.

Among other things, this letter notifies Mr. Hale that the information sought regarding donated assets has not been provided, therefore, the matter has been referred to the Inspector General for investigation.

- I. 05/05/93 Letter to Joseph Newell from David Hale (faxed) responding to his May 5, 1993, letter and expressing shock regarding the referral to the OIG.
- 05/06/93 Erskine Bowles' confirmation hearing before the Senate Small Business Administration occurred this date.
- J. 05/13/93 Memo to Wayne Foren from Claude Cooper concerning a phone call from David Hale on 5/13 regarding a possible meeting with Governor Tucker on a Community Bank Concept.
- K. 05/19/93 Briefing outline provided to Erskine Bowles as an update on the status of Capital Management.  
  
Notified Mr. Bowles that Capital management defaulted on Debentures and that SBA was proceeding to liquidation. Capital Management cured the default and we didn't transfer the licensee to liquidation.
- L. 06/14/93 Memo to Charles Mezger and Phyllis Dawson from Joseph Newell regarding a phone call Mr. Newell received from FBI Special Agent David Reign concerning Capital Management. He stated that he was working with the US Attorney's office on Capital Management and he requested specified information.
- 7/20/93 FBI obtained a warrant to seize Capital Management records. Vince Foster found dead in park. Capital Management's Records were seized on next day.
- M. 8/04/93 Memo to Acting ADA/FIP from DAA/I notifying her of fraud against SBA by capital management based on information provided by US Attorney's office of Eastern District of Arkansas.
- N. Undated Memo to ID committee from DAA/I notifying them of a meeting to be held on August 16, 1993 to consider transferring Capital Management to Liquidation.
- O. 08/09/93 Briefing memo to Administrator Bowles from Wayne Foren on developments leading to possible criminal indictment of David Hale.

09/15/93 SBA appointed receiver of Capital Management. This was done with David Hale's agreement.

P. 09/21/93 Memo to Administrator Bowles providing him a status report on Capital Management and notifying him that David Hale was expected to be indicted on September 21 or 22.

10/22/93 Wayne Foren was reassigned by Administrator Bowles from the position of Associate Administrator for Investment to the position of Special Assistant to the Deputy Administrator.





Certified Mail - Return Receipt Requested

OCT 29 1992

License No: 06/06-5207

Mr. David Hale  
Capital Management Services, Inc.  
1910 North Grant, Suite 200  
Little Rock, Arkansas 72207

Dear Mr. Hale:

Enclosed please find your preferred stock application which we are returning because the licensee does not have the requisite amount of regulatory capital for \$6,000,000 of additional leverage.

The licensee's computation of regulatory capital on Page 6C of SBA Short Form 468 should provide a deduction of \$13,759,782 for donated capital which is a non-cash contribution of medical accounts receivable and shares of National Supply Building. Since capital stock was not issued in exchange for the contribution, this deduction should be shown on line 8 (g) Other on Page 6C. At such time as the assets are converted to cash, the amount of cash received may be considered part of regulatory capital. Please refer to Part 107, App. 1 of the Regulations, Analysis of Capital Stock and Paid-in Surplus and Computation of Regulatory Capital, for an explanation.

Please provide details to SBA within 15 days from the date of this letter as to the transaction which gave rise to the donation of other assets to the licensee now included in Paid-in surplus, including the name of the donor, the nature of the donor's business, the nature of the relationship if any between the donor and the licensee, what consideration if any the donor received in exchange for the donation, and copies of any correspondence or agreements between the licensee and the donor concerning the transaction.

Please contact Walter Peterson at 202-205-7594 with any questions.

Sincerely,

(Signed) Phyllis E. Dawson

Phyllis E. Dawson  
Chief, Area II  
Office of Investment

Enclosure

OI: PETERSON/10/21/92:FINAL:WJG:10/27/92

cc: AREA II

PETERSON

INV. 6-5-1

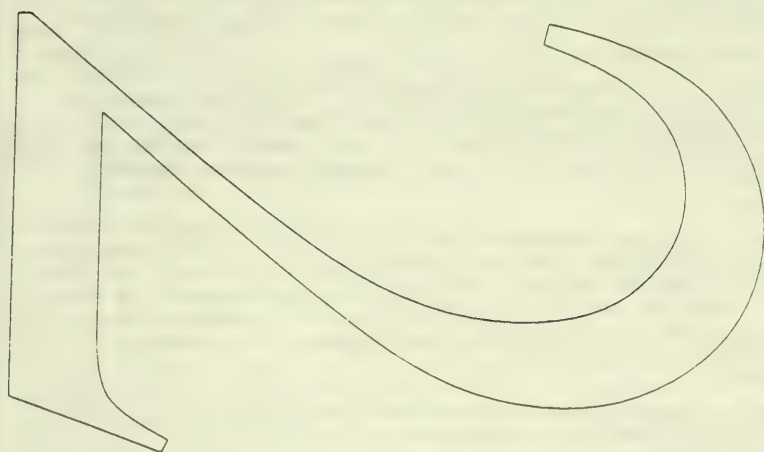
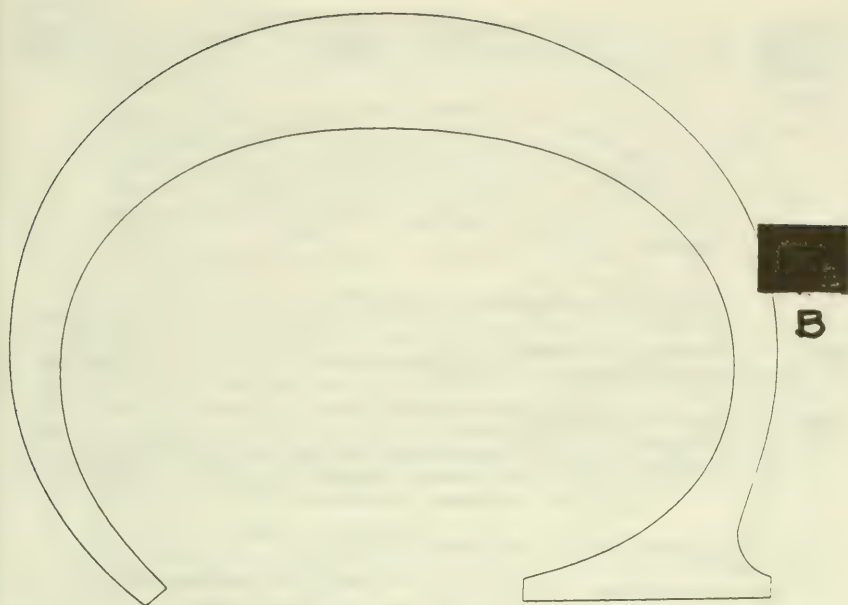
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PETERSON





U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



DATE: November 12, 1992

TO: Marvin D. Klapp  
Director, Office of Investment

FROM: Howard S. Cooper  
Chief Counsel for Investment

SUBJ: Capital Management Corp.  
License No. 06/06-5207  
Capitalization & Borrowings of SBICs, Private--  
Inclusion of Donated Assets in Private Capital for  
Leverage Purposes; Preferred Stock

Log No. 7311; See also Log No. 7203

It has long been SBA's position that a Licensee may, generally speaking, accept donations of securities or other assets, but that the donated asset will not be regarded as a part of the Licensee's Private Capital for any purpose, especially for leveraging purposes. Amoco Venture Capital Co., Log 4723 (1976); Feizer Capital Corp., Log 4883 (Feb. 4, 1977) and Log 5002 (June 27, 1977); Log 5437 (May 16, 1979); Letter to Dewey Ballantine, Log 5565 (Dec. 20, 1979); VNB Capital Corp., Log 6295 (Sept. 20, 1983); FBS Small Business Investment Co., Log 6300 (Sept. 20, 1983); Hanover Capital Corp., Log 6364 (Dec. 30, 1983); U.S. Bancorp Capital Corp., Log 6885 (Dec. 20, 1988); Letter to Hughes and Luce, Log 6905 (Feb. 2, 1989); Letter to Dover & Dixon, Log 7203 (Aug. 1, 1991).

The memorandum submitted by Ms. Byrnes, Licensee's counsel, does not convince me that the foregoing line of decisions is arbitrary, capricious, and inconsistent with the Act; and that SBA is therefore obligated to include donated assets, to the extent that SBA is satisfied as to their value and/or liquidity, in the recipient Licensee's Private Capital for leverage purposes.

The basic point Ms. Byrnes makes was raised in the letter from Dover & Dixon and responded to more than a year ago:

The Act authorizes leverage to be extended on the basis of a Licensee's "combined private paid-in capital and paid-in surplus". While SBA has issued regulations defining what funds may be included in a Licensee's Private Capital, SBA has not, in the body of the

Regulations, addressed the question of what funds or assets may be included in a Licensee's "paid-in surplus."

What may be included in "paid-in surplus" is described in Appendix II, Account No. 420, which covers, among other things, "the amount of surplus arising from... (5) donations or gifts to the company of assets carried at not in excess of fair market value."

A copy of our response to Dover & Dixon is attached hereto.

If I understand Ms. Byrnes' position correctly, it is that the language of Account No. 420 more closely tracks the intent of Congress than does SBA's past interpretations. But if we are obliged to conclude either that Congress intended to require SBA to recognize donated assets as part of "paid-in surplus" for leverage purposes, or that SBA intended to adopt a policy position that anything included under Account No. 420 should be recognized as a part of a Licensee's leverage base, we are obliged to conclude also that Congress or SBA intended the following scenario as well:

(1) A purchases 1,000,000 shares of the \$1 par stock of Licensee X, representing 100 percent of the Licensee's authorized stock.

(2) A pays \$1,000,000 in cash for the stock. At this point, the Licensee's paid-in capital is \$1,000,000 and paid-in surplus is zero. The Licensee's leverage base is \$1,000,000.

(3) A donates 999,999 shares to the Licensee, but as the holder of the only outstanding share, A still owns 100 percent of the Licensee's stock. A also donates some pocket change, in the amount of \$1. Now the Licensee has a paid-in surplus of \$1,000,000. Has the Licensee's leverage base doubled?

The logic of Ms. Byrnes's position would compel a "yes" answer, since Account No. 420 also covers "donations to the company of its issued capital stock carried as treasury stock at fair market value or par value."

Ms. Byrnes also argues that SBA's definition of "Private Capital", as set forth in §107.3, does not preclude the recognition of donated assets as part of "Private Capital." SBA's regulatory definition speaks of "funds" and she cites Black's Law Dictionary in support of the proposition that the noun "funds" may include "notes, bills, checks, drafts, stocks and bonds, and in broader meaning may include property of every kind", citing State v. Finney, 114 Kan. 12 (1935) 40 P.2d 411,



421. It may be conceded that "funds" is a term whose meaning may vary with the context; but "funds" has also been judicially construed to mean "the proceeds of sales of real and personal estate, or the proceeds of any other assets converted into money". See Black's Law Dictionary citing Doane v. Insurance Co. 43 N.J. Eq. 533 (1887), 11 A. 739 and Illinois Christian Missionary Soc. v. American Christian Missionary Soc. 277 Ill. 193 (1917), 115 N.E. 118. SBA's position that "funds" means "money" is not an unreasonable one.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



Michael R. Johns, Esq.  
Dover & Dixon  
425 West Capitol  
Little Rock, Ark. 72201

Dear Mr. Johns:

Your letter of July 23, 1991 asks whether SBA would recognize, for leveraging purposes, the fair market value of certain non-cash assets that the sole shareholder of an unidentified small business investment company (SBIC) proposes to donate to the SBIC. These assets include common stock in a NASDAQ-listed company, real estate, securities of a privately-held company, real estate mortgage obligations, and a portfolio of negotiable automobile loan paper.

SBA will not recognize the fair value of the above-described donated assets as a part of Private Capital for leverage purposes.

"The donated assets would not be considered a part of the SBIC's Private Capital until they are reduced to cash, nor would stock dividends or distributions in kind. Cash dividends or distributions received by the SBIC with respect to the donated securities could be included in Private Capital to the extent that the SBIC chooses to capitalize such earnings."

See SBIC Log No. 6905 (February 2, 1989).

Furthermore, you should be aware that SBA may not allow the SBIC to accept everything that the shareholder may wish to donate.

Your position seems to be based upon a literal reading of Sec. 107.705 of the SBIC regulations (13 CFR, Part 107) and the explanatory language of Account No. 420. You apparently interpret Sec. 107.705 to mean that only assets of the types listed therein may be carried under the "paid in capital" account, and you concede that none of the assets in question in the instant case would qualify under the regulation. However, you then read the explanatory language of Account 420 as requiring SBA to recognize, as a part of "paid in surplus", the fair value of any other asset that might be donated to the SBIC.

If your position is correctly summarized, SBA disagrees but sees no need to address it on its merits. Your attention is directed to the enclosed copy of Page 6C of SBA Form 468, which

makes it clear that SBA does not recognize for leverage purposes the fair value of every asset that a Licensee may acquire.

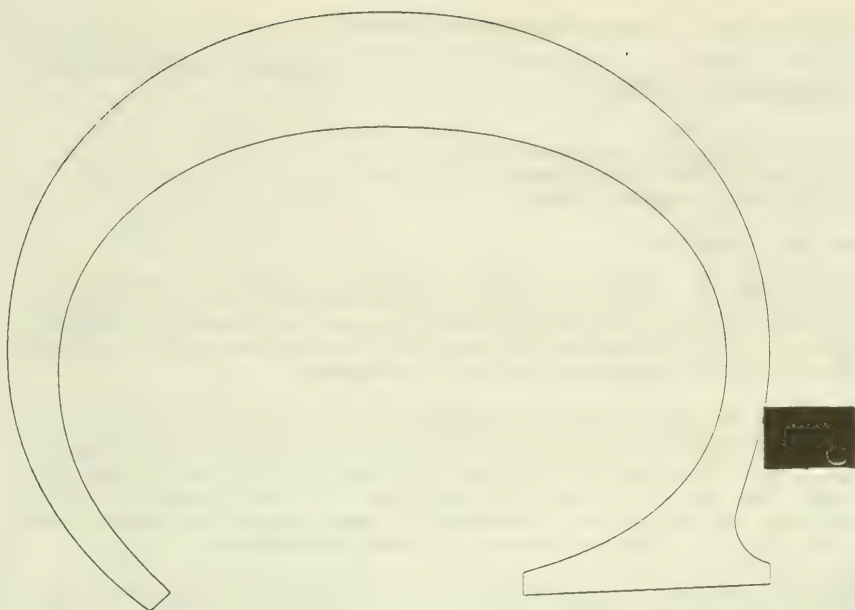
Your attention is also directed to Sec. 107.1004(a), which makes any increase in capitalization subject to "SBA postapproval as a condition for the continuance of the license." Generally speaking, SBA will not allow an SBIC to accept a donation of securities that would effectively cast the SBIC as an entrepreneur doing business through a subsidiary, or any donation that would expose the SBIC to the liabilities or other obligations of the donor, including tax obligations.

In certain circumstances, the financing of a small concern, or a temporary assumption of control over a small concern (with or without the participation of an Associate of the SBIC) may violate SBA regulations unless such action is necessary to protect an investment. Since the donee of a small concern's securities has a zero investment, a financing that would otherwise contravene applicable regulations, or a subsequent assumption of control, would both be absolutely impermissible. For the same reason, SBA will not allow an SBIC to spend money on the improvement of a donated asset.

I trust you understand SBA's position in this matter.

Sincerely,

Wayne S. Foren  
Associate Administrator for  
Investment





Certified Mail - Return Receipt Requested

DEC 8 1992

License No: 06/06-5207

BY FACSIMILE AND MAIL

Mr. Tom Anderson  
Capital Management Services, Inc.  
1910 North Grant, Suite 200  
Little Rock, Arkansas 72207

Dear Mr. Anderson:

In regard to assets recently donated to Capital Management Services, Inc., we understand that such assets were given to the SBIC to increase the size of the licensee and that the donated assets will be converted to cash and then be available to fund minority small business concerns in Arkansas.

SBA approves the increase in capital of \$13.8 million subject to our understanding that the licensee issued no new securities and there has been no transfer of control of the SBIC by any means whatsoever (see Section 107.601 of the regulations governing SBICs). No part of the \$13.8 million will be recognized for regulatory purposes until converted to cash. Borrowing against the \$13.8 million is not considered an asset conversion.

Although the assets received do not qualify as eligible SBIC investments, this office approves the recent exchange of assets (pursuant to Section 107.904(a) of the SBA Regulations), subject to the conversion of these marketable assets to \$2.5 million in cash within 120 days from the date of this letter.

Final approval of the exchange of assets and any requests for funding are subject to the approval of the SBA Standards of Conduct Committee because of your membership on the SBIC Advisory Council.

We are processing the application for \$1.4 million of preferred stock and again returning the \$6 million application which the licensee is ineligible for.

If you have any need for clarification, please call Mr. Walter Peterson. His number is (202) 205-7594.

Sincerely,

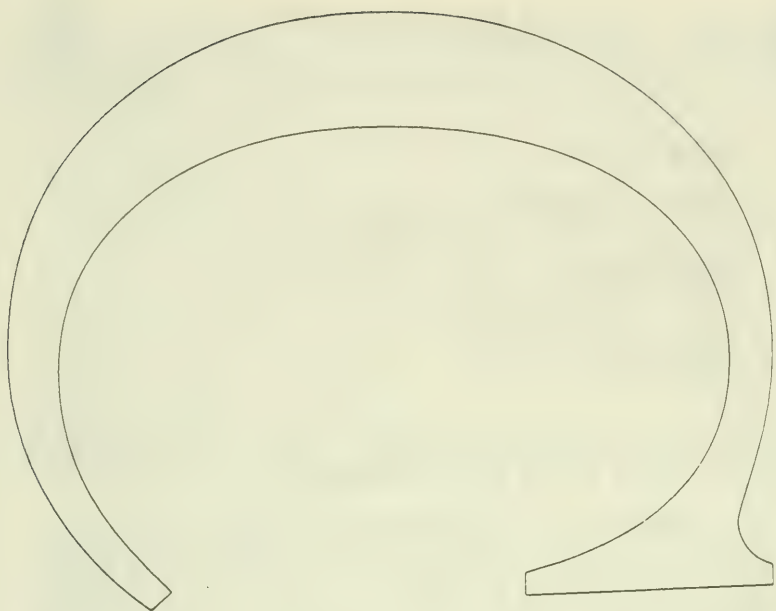
(Signed) Marvin D. Klapp

Marvin D. Klapp  
Director

Office of Investment OI: PETERSON/12/7/92:FINAL:MJG:12/7/92

CC: AREA II  
INV. 6-5-1

PETERSON  
FOREN CODE No. C-3 S:CAPMAN2.TAN



D





U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



Date: March 11, 1993  
To: Joseph L. Newell  
Director of SBIC Operations  
From: Chuck Mezger *CM*  
Acting Director of SBIC Examinations  
Subject: Capital Management Services, Inc.  
Little Rock, Arkansas  
06/06-5207

Attached for your review and appropriate action is our Examination Report for Capital Management Services, Inc. The examination covered the 24-month period ending November 30, 1992.

During the examination, we attempted to obtain information regarding Central Arkansas Community Development Corporation's (CACDC) source for the National Building Supply (NBS) stock and the Medical Accounts Receivable exchanged for assets of, and donated to, the licensee (see Finding 1 and Other Matters). The reason for our concern was that, according to information in a letter dated September 30, 1992 to CACDC from the custodian holding the receivables (First Dominion Financial Group), the receivables had been delivered from Concorde International, Ltd. which, allegedly, is an off-shore private investment company domiciled in the Grand Cayman Islands. We believe that Concorde also may be the source for the one million shares of NBS stock.

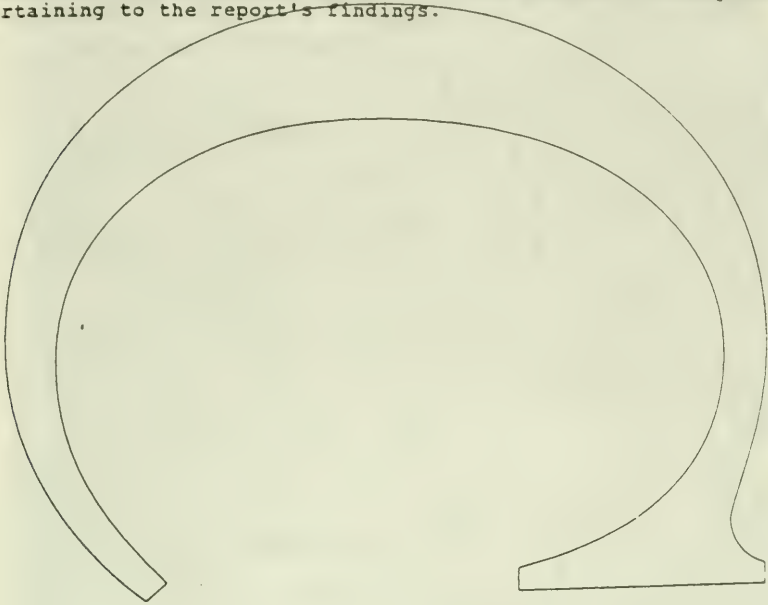
We asked Thomas W. Anderson, president of CACDC, about CACDC's source of the receivables and stock, but Mr. Anderson refused to provide any information, including whether Concorde was the source.

We believe the donation and exchange of assets raises serious questions, such as potential conflict of interest transactions, which we could not pursue because of Mr. Anderson's refusal to answer our questions regarding CACDC's source of the stock and accounts receivable. Without additional information, we believe the potential for undisclosed material facts exists in the transactions, including the potential for illegal activity.

Because of the unknown factors and the findings described in our report, we recommend that the licensee's pending \$1.4 million funding application not be approved.

If you would like to discuss the report's findings, or need additional information, feel free to contact me on 205-7172.

Please provide our office with a copy of your letter forwarding the report to the licensee, as well as any further correspondence pertaining to the report's findings.





# STBA

**U.S. Small Business Administration  
Small Business Investment Company Program**

# Examination Report

Investment Division • Office of SEC Evaluations

Capital Management Services, Inc.

## THE ROCK-AWAYS

(06706-724053)

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## Summary

We conducted an examination of Capital Management Services, Inc. of Little Rock, Arkansas, a Section 301(d) Small Business Investment Company (SBIC). The purpose of our examination was to determine whether the licensee complied with the laws, rules and regulations, and established policies governing the SBIC program. Our review covered financings made by the licensee, as well as administrative and internal controls as deemed necessary.

Our examination disclosed that the licensee:

- transferred assets to an associate without SBA approval;
- created an overline investment in an asset received in exchange for portfolio assets;
- did not properly safeguard its assets during the exchange; and
- misclassified and misrepresented the sale of assets as financings to small concerns.

Our findings were discussed with Mr. David L. Hale, president and director of the licensee during the course of the examination and at an exit conference held January 15, 1993. His comments have been included in the report where appropriate.

## Introduction

### Background

Capital Management Services, Inc. was incorporated under the laws of the State of Arkansas on September 14, 1978 and was licensed as a Section 301(d) licensee by the Small Business Administration (SBA) on March 14, 1979.

The licensee's office is located at 1910 North Grant Street, Little Rock, Arkansas. The licensee's daily operations are managed by David L. Hale, president and director. During the examination period, the licensee elected three new officers and directors. All changes were reported to SBA. See Exhibit 2 of this report for a schedule of the licensee's officers and directors.

The licensee's private capital of \$1,406,310 remained the same; however, in September 1992 the licensee received about \$13.8 million in donated capital (see Other Matters). SBA continues to own \$1.4 million of 3 percent preferred capital stock. Also, there has been no change in the \$2 million in SBA debentures.

An unaudited comparative balance sheet of the licensee, as of November 30, 1990 and November 30, 1992, is shown as Exhibit 1 of this report.

In a letter dated December 9, 1992, SBA informed the licensee that it would accept its application for second tier preferred stock leverage in the amount of \$1.4 million. However, the final decision on the application would require an examination of the licensee.

### Objectives and Scope

The purpose of our examination was to determine whether the licensee complied with the laws, rules and regulations, and established policies governing the SBIC program. Although we reviewed selected general ledger accounts, we did not perform a financial audit, and therefore, do not express an opinion on the licensee's financial statements.

Capital Management Services, Inc. was examined for the 24-month period ended November 30, 1992. During this period, the licensee made 16 financings (totalling \$2,766,297) to 14 small concerns. Our examination included a review of 13 financings (totalling \$2,756,297) to 12 small concerns. This represented 81 percent of the financings made by the licensee during this period and 99.6 percent of the aggregate dollar amount of financings. The on-site phase of our review was completed on January 21, 1993.



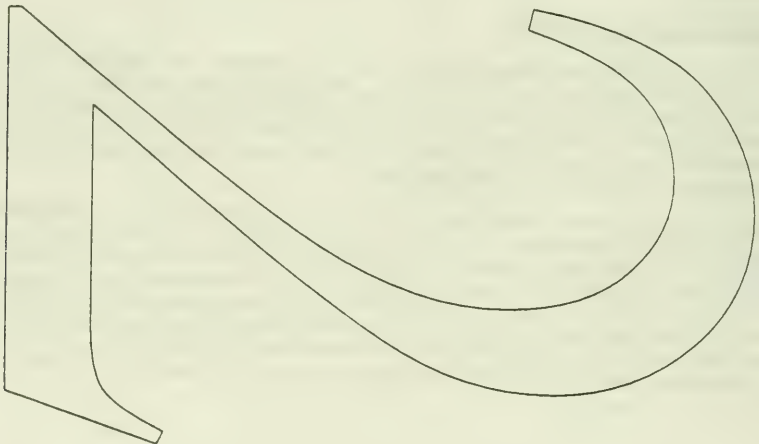
Our examination included a confirmation of cash on deposit, a review of cancelled checks, wire transfers and related supporting documentation for disbursements, as well as a review of other financial records.

For the selected financings, we reviewed notes, loan and debenture agreements, stock purchase agreements, financial statements, and/or supporting documentation, including background data on the small concerns and their principals. For selected portfolio concerns, we obtained credit reports and verified the financings by direct confirmation. We also visited four portfolio concerns to observe general operations and verify the terms and conditions of the licensee's financing.

We reviewed the licensee's procedures to ensure dual signatures on checks and to safeguard securities. We also reviewed the licensee's portfolio valuation procedures, as well as the supporting documentation for valuations of loans and investments as of November 30, 1992. To the extent practical, we used the independent accountant's report for the fiscal year ended June 30, 1992.

#### Follow-up on Prior Examination

The prior examination report, which covered the 26-month period ended November 30, 1990, identified regulatory violations regarding inadequate documentation for its portfolio valuation, financing an ineligible concern, not preparing eligibility profiles, exceeding the cost of money limitation and not maintaining dual control over disbursements, all of which have been corrected and resolved to the satisfaction of SBA.



## Findings

### Finding 1: Assets transferred to an associate

Section 107.904(a)

Overline investment - Section 107.710(b)(3)

Assets not properly safeguarded - Section 107.1003(a)

In June 1992 the licensee transferred its investments in seven portfolio concerns to an associate in exchange for \$2,514,000 of a publicly traded stock, the identity of which was unknown to the licensee at the time of the exchange. Because the exchange was made with an associate of the licensee, licensee personnel should have obtained prior approval from SBA but did not do so. In addition, once the stock was received by the licensee in September 1992, the exchange resulted in an overline in that the acquired stock represents 179 percent of the licensee's approved private paid-in capital. In effect, the licensee exchanged approximately 50 percent of its assets, some of which were income producing, without knowing the identity or quality of the stock to be received; the stock has since declined in value.

Section 107.904(a) of the regulations states that except with a prior written exemption from SBA in special instances, a licensee shall not dispose of assets to any associate. As a prerequisite to such exemption, the licensee must demonstrate that the proposed terms of disposal are no less favorable to it than are obtainable elsewhere.

Section 107.710(b)(3) of the regulations, regarding assets-acquired-in-liquidation of portfolio investments, states, in part, that the aggregate amount of the licensee's investment may not exceed the amount allowed under Section 107.903, or 30 percent of private paid-in capital for Section 301(d) licensees.

Section 107.1003(a) of the regulations states that each licensee shall adopt a plan designed to safeguard its assets and monitor the reliability of its financial data.

On June 1, 1992, the licensee assigned to Central Arkansas Community Development Corporation (CACDC) the following portfolio investments in exchange for the future receipt of "\$2,514,000 in public traded stock at least stock traded on NASDAQ" (the assignment agreement did not specify the stock or a time frame for the delivery of the stock).

<u>Portfolio Concern</u>	<u>Type and Cost Basis of Investment</u>	
Liberty Mortgage, Inc.	Equity	\$ 275,000
	Loan (P) & (I)	16,000
Property Care, Inc.	Loan (P) & (I)	314,000
Midwest Consultant, Inc.	Loan (P) & (I)	460,000
Cole Masonry and Construction	Loan (P) & (I)	449,000
Converging Systems, Inc.	Equity	400,000
Cyberspace Corporation	Equity	350,000
Patient Communications	Equity	250,000
Total		<u>\$2,514,000</u>

(P) & (I) = Principal and accrued interest

CACDC is a non-profit corporation whose purpose is to provide economic development and services to the community. CACDC's sole owner and director is Thomas W. Anderson who is also the licensee's vice president, assistant secretary, chief financial officer and a member of the board of directors. Because of Mr. Anderson's relationship with CACDC and the licensee, the exchange transaction resulted in disposition of the assets to an associate. No SBA approval was obtained to transfer the assets to an associate; however, SBA is aware of the transaction. In a letter dated December 8, 1992 to the licensee, SBA informed the licensee that approval for exchange of the assets was subject to the conversion of the stock to \$2.5 million in cash within 120 days.

On October 1, 1992, the licensee received confirmation from Merrill Lynch that as of September 30, 1992, one million shares of National Building Supply (NBS) common stock was placed in the licensee's account with a closing bid price of \$4.75 per share. Of the one million shares, 529,263 (\$2,514,000) shares represented the stock that was delivered by CACDC in exchange for the assets, and the balance of 470,737 shares represented a donation of assets to the licensee by CACDC to increase the licensee's capital (discussed later in Other Matters).

Although the licensee's board of director's approved the exchange of the assets in June 1992, the licensee's files contained no evidence as to the extent of the due diligence performed on NBS, except for a copy of the June 1992 Form 10-Q Report. Furthermore, there was no evidence that the board of directors approved acceptance of the stock. According to the licensee's president, the board of directors relied on Mr. Anderson to provide the necessary information on the stock, and the board was informed in September 1992, at an informal board meeting, that the National Building Supply stock was available. The president further stated that Mr. Anderson discussed other stocks but recommended the NBS stock, and the licensee could have refused the NBS stock.

To determine the licensee's potential risk in the NBS stock, we reviewed the June and September 1992 Form 10-Q reports submitted by NBS to the Securities and Exchange Commission. We obtained the September 1992 report directly from NBS.

Our review disclosed that NBS's sales for the three months ended June 30, 1992 were \$792,564, compared to \$2,009,301 for the same period in 1991, which represents a 62 percent decrease. For the six-month period ended September 30, 1992, sales were \$1,598,417 as compared to \$4,105,435 for the same period in 1991, for a 61 percent decline.

Shareholder equity has also decreased significantly. For the three month period ended June 30, 1992, shareholder equity decreased from a deficit of \$332,792 at year end to a deficit of \$560,071. For the six month period ended September 30, 1992, shareholders' equity decreased to a deficit of \$679,135.

In addition to the significant decline in NBS financial position, the Form 10-Q reports indicated that NBS was experiencing liquidity and cash flow problems.

We were also unable to ascertain from reviewing the 10-Q reports when and to whom NBS issued the stock; however, the licensee's one million shares represented approximately 19 percent of NBS's outstanding common stock as of September 30, 1992.

We confirmed the licensee's investment with Merrill Lynch (ML), the brokerage firm holding the stock. ML advised us that the common stock was issued just prior to being sent to them, probably on about September 22, 1992, and the stock is "144 legend stock" which is restricted stock. As to the marketability of the stock, ML informed us that the stock is traded by Over-the-Counter (OTC) dealers, and is marketed by its various market makers. As of our examination date, the stock had a closing bid price of \$4.75 per share, but, as of January 18, 1993, the closing bid price was \$4.00 per share.

We believe that the licensee took an undue risk in exchanging its assets and accepting a stock whose marketability may be limited or unknown, especially since it represents such a large block of outstanding shares. Consequently, the licensee may find it difficult to readily sell the million shares of restricted stock.

Furthermore, the licensee has 179 percent of its private paid-in capital in one investment. SBA has disallowed \$13.8 million of donated assets as paid-in capital for regulatory purposes (see Other Matters); as a result, paid-in capital for regulatory purposes is only \$1,406,310. The licensee's \$2,514,000 in NBS stock represents 179 percent of that amount, an overline under the regulations.



We discussed the events with Mr. Hale, the licensee's president, and Mr. Anderson, who was instrumental in the transactions. Mr. Anderson stated that the reason for the exchange was to provide liquidity to the licensee. He further stated that at the time of the exchange CACDC did not have any stock to give to the licensee, and did not know what stock would be given to the licensee. Regarding due diligence and marketability, Mr. Anderson said the Form 10 Q and K reports were reviewed, and he talked to various market makers. He was informed that the price range for the stock was \$4-5 per share, and that the stock was NASDAQ quality or better. Mr. Anderson also said the stock was restricted, but there is a market for this type of stock, and the latest price was in the \$4-5 range in Tampa, Florida. We also asked Mr. Anderson where CACDC obtained the NBS stock which was then given to the licensee. Mr. Anderson stated that the acquisition was a private transaction, and no details would be given to us regarding the transaction.

As of the conclusion of our on-site examination, none of the stock had been sold.

The investment was recorded as "Other Receivables" on the books of account. In accordance with SBA's Chart of Accounts, the \$2,514,000 investment should be recorded in account 220, "Notes and other securities received on sale of portfolio securities".

#### Licensee's Comments

Mr. Hale, the licensee's president, said it was an oversight in not realizing assets were being sold to an associate, and SBA is aware of the transaction. Mr. Hale also said that the licensee had a valid contract for the delivery of the stock with the right to accept or refuse the stock. Both he and Mr. Anderson thought it was "NASDAQ quality" stock based on the information they had at the time of the decision. Also, Mr. Hale said that he knew that it was 144 stock but did not know what it meant at the time. He further stated that Mr. Anderson knew that it was 144 stock and probably assumed the whole board knew what it meant, and the board depended on Mr. Anderson because of his expertise. Mr. Hale said the licensee plans to sell the stock as soon as possible.

#### Finding 2: Sale of assets misclassified - Section 107.1002(a) Misrepresentation to SBA - Section 107.906(b)

The licensee classified the sales and trades of its investments in portfolio concerns as financings. Furthermore, the transactions were reported to SBA as financings which constituted a misrepresentation of fact because, except in one case, no direct financial assistance was provided to the small concerns.

Section 107.1002(a) of the regulations states that current financial records, including books of account, are to be maintained in all material respects in accordance with SBA's system of account classifications.

Section 107.906(b) states that any false statement knowingly made, or misrepresentation or failure to state a material fact necessary in order to make a statement not misleading in the light of the circumstances under which the statement was made, in any document submitted to SBA constitutes a violation of the regulations.

SBA Policy and Procedural Release #2011, Licensee Reporting for Program Evaluation Portfolio Financing Report (SBA Form 1031) states in Section I that information from these reports is used to demonstrate the value of the "financing" and management services made available to small business concerns by licensed SBICs to Congress, the Executive Branch, and the public at large. This information is also used to monitor the current status and needs of the program. Therefore, SBA is insistent in its requirement that licensees furnish promptly and completely the necessary program data in accordance with the reporting procedures set forth in the release; therefore, Section II requires:

A Portfolio Financing Report (Form 1031) must be sent to the Investment Division of SBA by each licensed SBIC within fifteen days of making a financing to a small business concern.

Section 107.3 of the regulations defines "Financing" as outstanding financial assistance provided to a small concern by a licensee whether through (a) loans, (b) guarantees, (c) debt securities, (d) equity securities, (e) commitments or (f) purchases of securities of a small concern through or from an underwriter. Sales or exchanges of assets are not included.

During the period examined, the licensee sold or traded its investments in 14 portfolio concerns to 7 other small concerns. No funds, except in one instance, were disbursed to the small concerns purchasing the licensee's investments. The licensee financed the sales by making a loan and/or receiving equity securities in the seven concerns purchasing the investments.

The licensee, however, recognized the sales as financings and recorded the transactions in the portfolio investment accounts, "Loans to Small Business Concerns - Loans" and "Equity Interests of SBICs - Capital Stock of SBICs - Other", instead of recording the transactions as "Notes and other securities received on sale of portfolio securities".

The sales were not "financings," as defined by the regulations, because, except in one case, the purchasing small concerns did not receive any financial assistance. The sales were reported to SBA on Portfolio Financing Reports (SBA Forms 1031) as financings, which was a misrepresentation of the actual transactions.

The specific details for each of the sales/trades follow. The transactions are subcaptioned by the name of the small concern purchasing the licensee's investments:

Autometrics, Inc.

On March 5, 1991, the licensee sold the following investments in portfolio concerns to Autometrics, Inc., for \$330,000:

<u>Portfolio Concern</u>	<u>Investment</u>
Multi Marketing	\$ 400 (E)
	64,368 (P)+(I)
Carens, Inc.	75,000 (E)
	81,311 (P)+(I)
Vell Forestry Products	490 (E)
	182,865 (P)+(I)
Total	<u>\$404,434</u>

(E) = equity

(P) = loan principal

(I) = accrued interest

To finance the sale, the licensee made a ~~\$130,000~~ loan and acquired 490 shares of Autometrics' common stock for \$180,000. Although the SBA Form 1031 showed that the purpose of financing (use of proceeds) was inventory and working capital, no funds were disbursed. In addition, the licensee realized a \$74,434 loss on the sale. As of the examination date, the outstanding balances remained at \$150,000 and \$180,000.

Arkansas Commercial Realty (ACR)

The licensee made a \$227,000 loan to ACR on September 22, 1992. The purpose of the loan was as follows:

Purchase licensee's investment in	
Townsend Financial Services	\$142,814
Refinance 11/89 \$150,000 loan balance	47,186
Funds disbursed to ACR	<u>37,000</u>
Total	<u>\$227,000</u>

The SBA Form 1031 submitted to SBA showed the purpose of the financing as working capital when only a small portion (\$37,000) of the total loan funds was actually disbursed. No gain or loss was realized on the sale. As of the examination date, \$211,344 was outstanding.

Property Care, Inc.

On February 1, 1991, the licensee sold its investments in the following portfolio concerns to Property Care for \$275,000:

<u>Portfolio Concern</u>	<u>Investment</u>
International Trading	\$188,930 (P)+(I)
	18,289 (P)+(I)
Minority Management Co.	18,654 (P)+(I)
	36,428 (P)+(I)
Total	<u>\$262,301</u>

The licensee made a \$275,000 loan to finance the sale, and no funds were disbursed. According to the Form 1031 sent to SBA, the purpose of the financing was for "working capital, leverage and equipment." The licensee realized a \$12,699 gain on the sale. Furthermore, the investment in Property Care was then sold to CACDC in June 1992 (see Finding 1).

Cole Masonry & Construction, Inc. (Cole)

On April 12, 1991, the licensee made a \$400,000 loan to Cole to purchase the licensee's investments in the following portfolio concerns:

<u>Portfolio Concern</u>	<u>Investment</u>
Master Marketing	\$380,622 (P)+(I)
Insurance Economists	23,301 (P)+(I)
Total	<u>\$400,923</u>

The purpose of the financing reported to SBA on the Form 1031 was "capital-bonding," but no funds were disbursed. In addition, the licensee realized a \$923 loss. Subsequently, in June 1992, the licensee sold, at cost, its investment in Cole to CACDC (see Finding 1).

Midwest Consulting (Midwest)

In April 1991, the licensee sold its investments in the following portfolio concerns to Midwest in exchange for a \$410,000 loan:

<u>Portfolio Concern</u>	<u>Investment</u>
Paul Sales Co. (2 loans)	\$387,715 (P)+(I)
Warren Shell Construction	15,004 (P)+(I)
Old Country Deli	9,865 (P)+(I)
Total	<u>\$412,584</u>

The SBA Form 1031, submitted to SBA by the licensee, showed the purpose of the financing as "security, bonding, and working capital"; however, no funds were disbursed. In June 1992, the licensee sold, at cost, its investment in Midwest to CACDC (Finding 1).



Med-A-Corp

On February 12, 1991, the licensee acquired 29,400 shares of Med-A-Corp common stock for \$408,750. In exchange for the stock, the licensee sold its investments in the following concerns to Med-A-Corp:

<u>Portfolio Concern</u>	<u>Investment</u>
McIntire Numismatic Auctions	\$300,000 (E)
Southern Foods	4,900 (E)
	<u>108,750 (P)</u>
Total	<u>\$413,650</u>

The licensee reported the acquisition of the stock to SBA as a financing with the purpose being "leasing, equipment, and equity." The licensee disbursed no funds for the Med-A-Corp common stock. In addition, the licensee incurred a \$4,900 loss on the sale, and as of the examination date the outstanding balance for the investment was \$408,750.

Incredible Closeout (Incredible)

The licensee received 4,666 shares of Incredible common stock on July 15, 1991. In exchange for the equity interest, the licensee sold its investments in the following concern:

<u>Portfolio Concern</u>	<u>Investment</u>
Little Rock Clothier (2 loans)	\$189,510 (P)+(I)
	<u>180,490 (E)</u>
Total	<u>\$370,000</u>

The Form 1031 submitted to SBA showed the purpose of the financing as "leasehold improvements, furniture, fixtures, inventory, and working capital." However, no funds were disbursed for the purpose shown. No loss or gain was incurred on the sale of the investments, and as of our examination date, the outstanding balance for the investment in Incredible was \$370,000.

In addition to misclassification of the above sales, the licensee misclassified as "Loans to Small Business Concerns - Loans" (Account 170) an assignment of three notes to the licensee by Compobello Realty, a portfolio concern. In October 1986, the licensee made a \$149,000 loan to Compobello. Compobello later experienced financial problems and, in January 1992, assigned the following three notes to the licensee in lieu of its regular loan payments:

<u>Maker</u>	<u>Amount of Note Assignment</u>	<u>Outstanding Balance 11/30/92</u>
R. & D. Lavender	\$ 32,783	\$15,536
M. Gilbertson	28,114	28,926
B. & J. Bruce	41,650	41,650
Total	<u>\$102,547</u>	<u>\$85,112</u>

The licensee, properly, did not report these three notes to SBA as financings.

In summary, the licensee has \$1,251,564 of investments remaining on its books which were misclassified and should be recorded in account 220 "Notes and other securities received on sale of portfolio securities." In addition, the \$85,112 remaining on the Compobello notes should be recorded in account 221 "Other securities received," in accordance with the SBA Chart of Accounts.

The licensee's president explained the licensee's actions, in selling existing investments and reporting them as new financing, in a written statement:

Because of the poor economic conditions for this part of the country more and more SBCs who do business are required to place up assets or commercial surety in order to do business. The SBIC was able to provide this need along with working capital for SBCs by the use of other financings, thereby providing financings for more SBCs in furtherance of the Act.

The reason some of the financings were reduced from the original outstanding balance [i.e. sold at a price less than the licensee's cost basis] to the new financing was because the board had valued them at that amount the year before [i.e. the sales price was based on the board's last portfolio valuation].

#### Licensee's Comments

Mr. Hale said he did not realize the financings were misclassified, and the same procedures were followed in making these financings as other financings. He further stated that he should have explained on the Form 1031 that the financings were transfers of assets.

## Other Matters

The following observations are noteworthy items of information that are significant but have not been classified as findings.

### Donated Capital

On September 30, 1992, Central Arkansas Community Development Corporation (CACDC) contributed to the licensee Medical Accounts Receivable in the amount of \$11,523,782 and 470,737 shares of National Building Supply Stock which had a closing bid price of \$4.75 per share (\$2,236,000) as of September 30, 1992. The \$13,759,782 contribution of the assets was to be Paid-in-Capital Surplus to the licensee.

Shortly thereafter, on October 8, 1992, the licensee applied for \$6 million of preferred securities from SBA. By letter dated October 28, 1992, to the licensee, SBA denied the funding request because the licensee did not have the required regulatory capital. The donated capital, which was a non-cash contribution, could not be used for regulatory purposes. SBA also requested details on the donation from CACDC.

The licensee, in correspondence, provided SBA with information regarding CACDC and the nature of the Medical Accounts Receivable and the National Building Supply stock. The licensee argued that the donated assets should be allowed for leverage purposes. SBA, in a letter dated December 1, 1992, reiterated its position that the non-cash contribution cannot be used as regulatory capital, especially for leveraging purposes, until converted to cash.

The Medical Accounts Receivable were designated TMWB 006107726-1 and TMWB 00513527-122, dated September 18, 1992, from the Thompson Memorial Medical Center (located in California). The receivables consist of current accounts due from insurance companies, government payors, and/or patients for health care and related service.

We confirmed the receivables with the custodian, First Dominion Financial Group, Austin, Texas. First Dominion advised that the receivables were placed in the account in the name of Central Arkansas Community Development Corporation on September 29, 1992, but are now in the licensee's name and are free of any liens and encumbrances. The balance as of November 30, 1992 and January 29, 1993 was \$11,523,782.

The National Building Supply stock contribution to the licensee was discussed in Finding 1.

We discussed the donation of the assets with Mr. Thomas W. Anderson, the licensee's vice president and president of CACDC.

Mr. Anderson said he would not discuss CACDC's source of the assets donated to the licensee, saying only that there are companies who are willing to donate funds for economic development. Mr. Anderson further stated that the receivables are guaranteed to stay at the present balance.

As of our examination date, the Medical Accounts Receivable were shown on the licensee's financial records as Other Receivables-Medical (asset) and Donated Capital (paid-in capital). However, the 470,737 shares of the National Building Supply stock have not been recorded. As a result, the licensee's financial records do not show assets and paid-in-capital as reported to SBA.

The licensee's president said that because of the possible tax question resulting from the trade, and SBA forcing the licensee to sell the stock acquired in the exchange of its investments with CACDC (529,263 shares--see Finding 1), a loss might result on the sale of the stock. Therefore, the board felt that the proper action, to best protect the SBIC, was not to record the donated portion (470,737 shares) of the stock.

#### Portfolio Valuations

The licensee continues to retain on its books of account financings which appear uncollectible, and/or where the small concern is no longer in business or its existence cannot be determined. If these financings were entirely reserved or written off, the licensee would have losses equivalent to about 32 percent of approved private paid-in capital. The following is our analysis of each of these financings:

#### Communication Company

In February 1986, the licensee made a \$65,000 loan to the small concern. The loan balance, including accrued interest, as of our examination date was \$61,990. The loan has been delinquent for three years with the last payment being made in July 1989.

The concern has filed for bankruptcy and the licensee has partially depreciated the loan by \$12,189. Given the past history of the loan and the uncertain outcome of the bankruptcy, it would be more appropriate to fully depreciate the loan. Mr. Hale stated that the bankruptcy had just been filed at the time the loan was valued, and had not had the time to evaluate the situation. He further stated that the loan would be fully depreciated.



Monitor & Environmental Drilling (Monitor)

The licensee made a \$75,800 loan to the concern in August 1989. In January 1991, the licensee refinanced the loan for \$82,850 (included capitalized accrued interest and additional cash of \$2,850). No payments have been made on the loan, and, as of our examination date, the loan balance was \$82,850, plus accrued interest.

In 1992 the small concern went out of business and all assets were sold. The only security remaining on the loan was a personal guaranty from the principals. Although the licensee has depreciated the loan by \$16,570, given the past history of the loan, no current financial statements to substantiate the value of a personal guaranty, and no other assets, the loan should be fully depreciated until substantial recovery has occurred.

Mr. Hale stated that the depreciated value was based on what the licensee could collect on the guaranty and he knows that the principals have personal assets. He further stated that he was waiting for the next interest due date before taking action.

Med-A-Corp

On February 12, 1991, the licensee acquired 29,400 shares of Med-A-Corp common stock for \$408,750. In exchange for the stock, the licensee sold its investment in two concerns as discussed in Finding 2.

The licensee's files showed that the concern was located in El Paso, Texas. We obtained information from a credit report which showed the name was unknown to local authorities or directories, and the Texas Department of Revenue had no listing for the business. The concern supposedly develops medical software.

During the examination, we requested a telephone number for the concern in order to confirm the investment. Subsequent to our on-site examination date, the licensee's president provided a telephone number. However, when we called the telephone number, we learned it had been disconnected, and there was no listing in El Paso, Texas for Med-A-Corp.

Because we were unable to confirm the \$408,750 investment and other circumstances regarding the existence and viability of the concern, we believe the equity investment may be worthless. Given these facts, we believe it would be more appropriate to fully depreciate the investment until the licensee can establish the viability of the concern.

In summary, the licensee's potential portfolio losses would amount to 32 percent of the licensee's private paid-in capital, calculated as follows:

<u>Concern</u>	<u>Outstanding Investment</u>
Communication Company	\$ 61,990 (P) & (I)
Monitor	86,276 (P) & (I)
Med-A-Corp	<u>408,750 (E)</u>
Total unrecorded potential losses	\$ 557,016
Realized Earnings 11/30/92 (offset)	<u>- 102,225</u>
Total as of 11/30/92	<u>\$ (454,791)</u>
Paid-in-Capital as of 11/30/92	1,406,310
Potential losses as percent of capital	32%
(P) & (I) Principal and Accrued Interest	
(E) Equity Investment	

In addition to the above investments, we could not satisfactorily ascertain the viability of one concern, although we did speak to a person identifying himself as the principal (Autometrics, Inc.), and the loans to another concern may be overvalued (Castle Sewer/Southloop). These two investments are discussed below.

#### Autometrics, Inc.

As discussed previously in Finding 2, the licensee sold its investment in three portfolio concerns to Autometrics, Inc., for \$330,000. In exchange, the licensee received a \$150,000 note and acquired 490 shares of Autometrics' common stock for \$180,000. These were also the outstanding balances as of the examination date.

Autometrics, according to the background information in the financing file, was involved with the brokerage and restoration of exotic and collectable automobiles. The licensee's financing files showed that Autometrics was located in Nixa, Missouri. We obtained information from a credit report which showed the name was unknown to local authorities, and none of the local or state authorities had any record on the business. The licensee's files, however, did contain a financial statement dated July 1, 1992, showing net worth of \$852,271.

Because the financing file did not contain a telephone number for the concern, we requested the concern's telephone number from the licensee's president. Subsequent to our on-site visit of the licensee, the telephone number was provided, and we attempted to contact the concern. However, when we called the telephone number, we reached a recording which did not identify the business, person, or the telephone number. We left a message

informing the person of the nature of our call and a request to return our call. On February 18, 1992, Mr. Harry Howard, who represented himself to be the concern's principal, returned our call and verbally confirmed the investment.

Because we were unable to confirm the licensee's investment in the concern from outside sources, we have no assurance as to the concern's viability as an on-going concern, except for the discussion with Autometrics' principal.

Castle Sewer and Water Corporation (Castle)  
Southloop Construction Company (Southloop)

The licensee made a \$150,000 loan to Castle in February 1987, and a \$100,000 loan to Southloop in October 1987. Southloop is a wholly owned subsidiary of Castle. As of our examination date, the loan balances, including delinquent interest, were \$227,398 and \$155,870, respectively. The loans have been delinquent for about three years, no payments have been made since June 1990, and interest continues to accrue on the loans. The loans have not been depreciated.

The reason for not depreciating loans, according to the licensee's president, was the concern's strong collateral position. According to an August 1990 appraisal, the water and sewer system had a value of \$1,542,641. The licensee held a second lien mortgage position behind the first lien holder (Madison Savings and Loan Association, which failed). The first lien holder's loans are now held by the Resolution Trust Corporation (RTC).

The concern's 1991 tax return showed total "mortgages, notes, bonds payable in 1 year or more" of \$659,378. Based on the appraisal and the outstanding mortgages, there seems to be sufficient collateral, if assets were sold. However, the assets were not being sold and collateral alone should not be the determining factor for valuing loans which are three years delinquent.

Mr. Hale said he knows that we will be able to collect the loans because he knows the people and the concerns' operation. Also, no payments have been made because of the concerns' problems with the RTC due to the failure of the first lien holder, and payments will be made once the problems are resolved. He further stated that he did not want to depreciate the loans because of the tax consequences.

We believe that the licensee should consider the delinquency factor and depreciate the loans, by some amount, to reflect the collection problems. The licensee cannot be certain that it will be able to collect 100 percent of the loans.

CAPITAL MANAGEMENT SERVICES, INC.  
Unaudited Comparative Balance Sheet

<u>Assets</u>	<u>As of Dates</u>	
	<u>11/30/92</u>	<u>11/30/90</u>
<u>Loans and Investments</u>		
Loans .....	\$ 1,048,113*	\$ 2,842,297
Debt securities .....		
Equity interests .....	1,191,740*	1,419,270
Assets acquired in liquidation .....		67,594
Notes and other securities .....		
Unrealized appreciation (net of depr.) .....	(23,759)	(160,156)
<u>Total</u>	<u>\$ 2,211,094</u>	<u>\$ 4,169,005</u>
Cash .....	\$ 20,136	\$ 8,582
Invested idle funds .....	31,090	202,403
Receivables and accrued items .....	182,600	543,865
Other Receivables .....	14,037,781**	
Other assets .....	15,881	27,820
<u>Total Assets</u>	<u>\$16,498,582</u>	<u>\$ 4,945,675</u>
<u>Liabilities and Capital</u>		
<u>Liabilities</u>		
Debentures payable to or guaranteed by SBA.C	2,000,000	\$ 2,000,000
Accounts payable and accrued items .....	52,170	64,479
Other liabilities .....	42,854	550
<u>Total Liabilities</u>	<u>\$ 2,095,024</u>	<u>\$ 2,065,029</u>
<u>Capital</u>		
Capital stock and paid in surplus .....	\$12,930,092	\$ 1,406,310
Preferred stock issued to SBA .....	1,400,000	1,400,000
Unrealized gain (loss) on securities held .....	(28,759)	(160,156)
Undistributed realized earnings .....	102,225	234,492
<u>Total Capital</u>	<u>\$14,403,558</u>	<u>\$ 2,880,646</u>
<u>Total Liabilities and Capital</u>	<u>\$16,498,582</u>	<u>\$ 4,945,675</u>

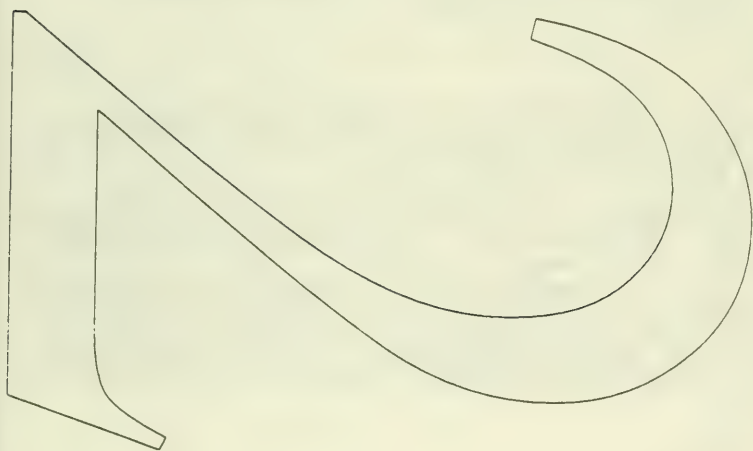
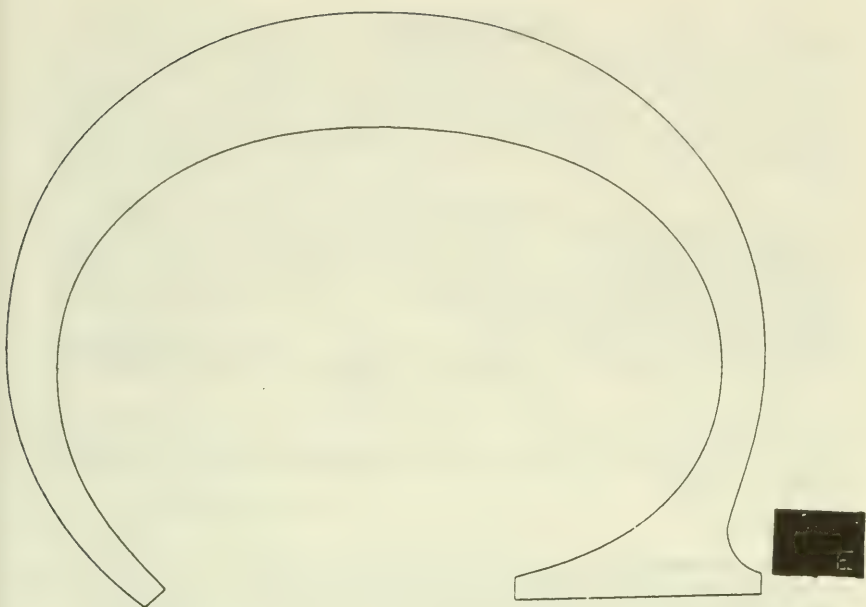
- \* The licensee's accounts are misclassified, as discussed in Finding 2.  
 \*\* Account balance includes: (1) stock acquired in exchange for investments in small concerns, and (2) Medical Accounts Receivable donated to the licensee.

"E: Prepared from trial balances provided by the licensee.



CAPITAL MANAGEMENT SERVICES, INC.SCHEDULE OF OFFICERS, DIRECTORS AND SHAREHOLDERSNOVEMBER 30, 1992

	<u>Common Stock</u>	
	<u>Shares</u>	<u>Percent</u>
David L. Hale, president and director	2,150	76.8
Thomas W. Anderson, vice president, assistant secretary, chief financial officer and director		
James Hall III, treasurer and director		
George S. Ivory, Jr., secretary and director		
Linda Sue Hale, shareholder	325	11.6
Hazel D. Dennis, shareholder	<u>250</u>	<u>11.6</u>
Total shares issued and outstanding	<u>2,300</u>	<u>100.0</u>



SUITE 200 - 1410 NORTH GRANT  
LITTLE ROCK, ARKANSAS 72207  
501 664-0613

April 20, 1993

Mr. Joseph T. Newell  
Director  
Office of Investment  
U. S. Small Business Administration  
409 3rd Street, S.W. -8th Floor  
Washington, D.C. 20416

INVESTMENT DIVISION

APR 23 1 42 PM '93

Re: Response to your letter dated 3/26/93

Dear Mr. Newell:

This is the response, containing 33 pages, to your letter dated March 26, 1993.

#### Finding 1

As you requested and as we have previously agreed to reverse the transactions with the CACDC we have enclosed copies of the documents to reverse, also, facsimile transmitted on April 14, 1993. Upon your approval of the documents and the execution of same should meet the requirements of Finding 1. Also please find enclosed the resignation of Thomas Anderson as Vice-president and Board member of the Licensee.

#### Finding 2

The licensee vigorously denies any misrepresentation. This is absolutely absurd since previous audit made no such finding. The inconsistency where one audit approves and the next disapproves is causing irreparable harm to the licensee.

Your letter refers to these financings as "Sales" or "Trades". There is no document or evidence of a Sale or Trade in any of these financings. The documents are "LOAN AGREEMENTS AND STOCK PURCHASE AGREEMENTS" between "Lender" and "Borrower". The definition of "Sale" or "Trade" as used by the Courts, Commercial and Governmental Laws throughout the United States are to constitute a "Sale" there must be parties standing to each other in relation of "Buyer" and "Seller". A "Sale" is a contract between two parties, called, respectively the "SELLER" and the "BUYER". "TRADE", is not a technical word and is ordinarily used in that of exchanging commodities by barter.

To be consistant in your interperatation that ONLY CASH may be used in ANY and ALL assistance to disadvantaged small concerns, for example it would require an SSBIC to place up ONLY CASH when guaranting a loan, contract, bond or any other assistance. If this is your interpretation then it should be placed in writing and made a part of the rules and regulations where congress and other interested parties may have the opportunity to comment on such interpretation.

The meeting of February 19, 1993 I indicated to you that it was the board's position that these financings were in keeping with your policy that all SSBIC financings should be cash equivalent and that the board felt this would put the licensee in a better position towards those ends.

Communication Company - The board advised the auditor that full depreciation was it's intent. The board agrees.

Med-A-Corp - This financing has been satisfied in full.

Autometrics - See Attachments

Castle Sewer and Water Corp. -  
Southloop Construction - See attachments

Interest will no longer be accrued on these loans. We take your letter as a directive from SBA although this may create certain legal problems for the licensee in protecting its' position.

Arkansas is located in the Mississippi Delta Region designated by the United States Congress as one of the nations's most economically stressed areas.

The average Arkansas disadvantaged small concern has a gross annual income of less than \$50,000.00. Your new reporting requirements will cost the typical, small disadvantaged business between \$3,250.00 and \$5,000.00 a year to comply. In Arkansas this means the typical disadvantaged concern must spend from 15% to 20% of its gross income on compliance. This eliminates most Arkansas disadvantaged concerns from participating in the program.

While complex and expensive reporting requirements may be justified for large business concerns, they are totally inappropriate for the small disadvantaged business. The board feels that this is just another example of systematic discrimination that is keeping disadvantaged concerns from receiving financial assistance.



We have enclosed a graph that will illustrate SBA's record with minority firms over the past decade. There is no doubt that SBA financings shifted to larger, less racially diverse firms during this period.

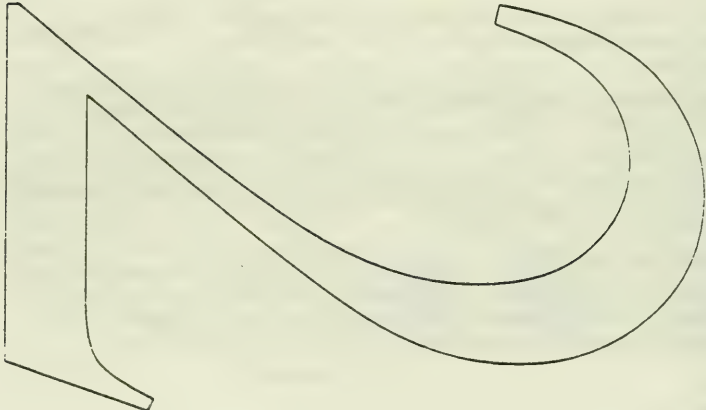
In the past two years your reporting requirements for the SSBIC of the small concerns has increased the licensee's expenses from \$2,700.00 per year to maybe as high this year of \$30,000.00. The tacit message in this shift is to shift funding toward, larger, more successful concerns: In other words, abandon the SSBIC mission.

The SSBIC's charge under the ACT to financially assist Disadvantaged Small Concerns who may be deprived from participating in the Free Enterprise System is being selectively destroyed.

Capital-Management Services, Inc.

By 

President



## AGREEMENT OF REVERSAL

April 13, 1993

On or about June 1, 1992, an assignment was enter into by and between Capital-Management Services Inc., an Arkansas Corporation hereinafter known as "Capital" and Central Arkansas Community Development Corporation, an Arkansas not for profit corporation hereinafter known as "CACDC" whereby CACDC would assign and transfer to Capital \$2,514,000.00 in publicly traded stock of at least NASDAQ quality in exchange for certain assets held by Capital as more specially set out in the Assignment attach hereto and marked "Exhibit A" and made a part hereof by reference .

That on September 30, 1992, CACDC did infact transfer to Capital 529,263 shares of National Building Supply Stock at \$4.75 a share. Both parties have held their respective assets intact as transferred.

It is the desire and agreement of Capital and CACDC that this transaction be reversed. Capital hereby transfers 5,293 shares of National Building Supply stock to CACDC and CACDC hereby assigns and transfers all assets as more specially shown in Exhibit A to Capital.

IN WITNESS WHEREOF, the parties hereto have executed and entered this Agreement the date first above written.

CENTRAL ARKANSAS COMMUNITY DEVELOPMENT CORPORATION

BY: \_\_\_\_\_  
President

CAPITAL-MANAGEMENT SERVICES, INC.

BY: \_\_\_\_\_  
Presidentn

AGREEMENT OF REVERSAL  
April 13, 1993

On or about September 30, 1992, a Contribution Agreement was entered into by and between Capital-Management Services Inc., an Arkansas Corporation hereinafter known as "Capital" and Central Arkansas Community Development Corporation, an Arkansas not for profit corporation hereinafter known as "CACDC" whereby CACDC would contribute to Capital 470,737 shares of National Building Supply stock and medical accounts receivable as designated as TMWB 006107726-1 and TMWB 00513527-122 dated September 18, 1992.

It was the hope and desire of the CACDC, with the approval of SBA, that Capital would be able to sell the assets for cash and use those funds for financial assistance to the disadvantaged small businesses within the Mississippi Delta Region.

It is the agreement of Capital and CACDC that this transaction be reversed. Capital hereby transfers 470,737 shares of National Building Supply stock and medical accounts receivable as designated as TMWB 006107726-1 and TMWB 00513527-122 dated September 18, 1992 to CACDC and CACDC hereby acknowledges and accepts said assets as is of September 30, 1992.

IN WITNESS WHEREOF, the parties hereto have executed and entered this Agreement the date first above written.

CENTRAL ARKANSAS COMMUNITY DEVELOPMENT CORPORATION

BY: \_\_\_\_\_  
President

CAPITAL-MANAGEMENT SERVICES, INC.

BY: \_\_\_\_\_  
President

THOMAS W. ANDERSON

8604 W.H. Burges  
El Paso, Texas 79925  
(915) 772-6666

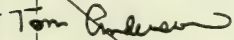
March 29, 1993

David L. Hale, President  
Capital-Management Services, Inc.  
1910 North Grant  
Little Rock, Arkansas 72207

Dear David:

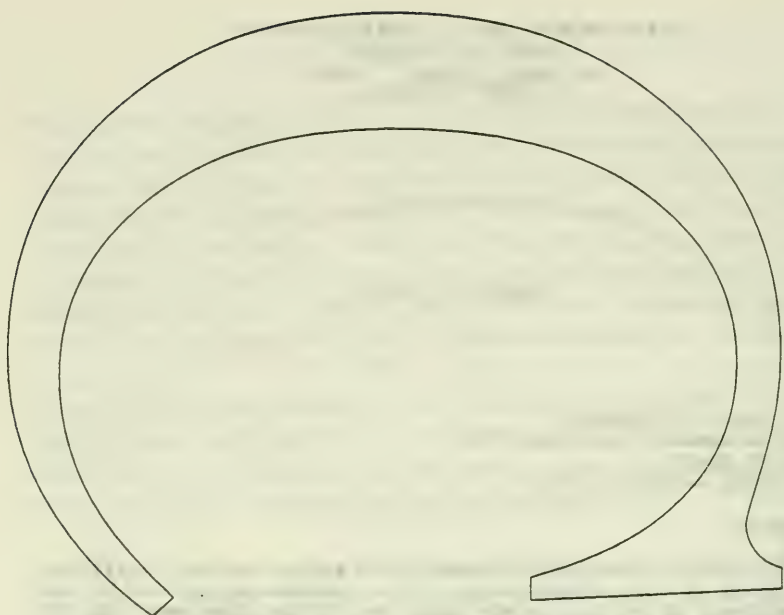
It is with regret that I submit my resignation as an officer and director of the corporation. This submission is due to the fact that most of my time is now spent out of the area and I do not feel I can not positively continue to commit to the organization. I have enjoyed my association with the organization and wish you much success.

Sincerely,

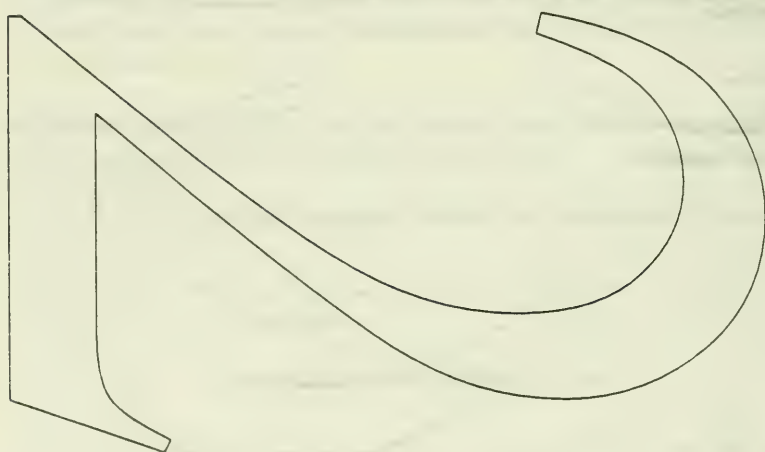


Thomas W. Anderson





F



CAPITAL MANAGEMENT SERVICES, INC.  
LITTLE ROCK, ARKANSAS  
License No. 06/06-5207

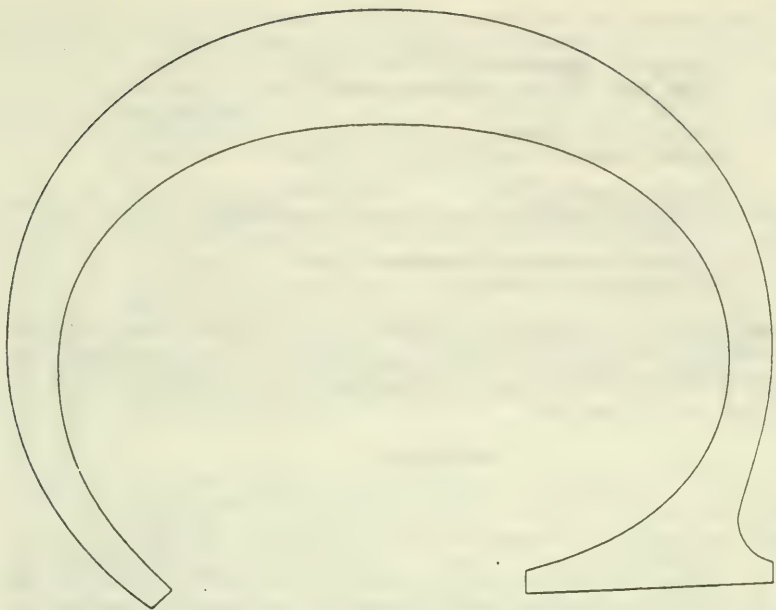
## SUMMARY:

- o Non-cash assets were contributed to CMS as a capital contribution that were represented to be free and clear of liens and encumbrances. It is questionable as to whether this representation was correct. CMS attempted to obtain leverage from SBA based on this increase in capital.
- o Licensee transferred certain assets to an associate in exchange for stock which was represented to be non-restricted stock listed on NASDAQ. The stock is restricted and not listed on NASDAQ. The value of this stock is questionable.
- o We have attempted to obtain the source of the donated assets without success. Therefore, the matter has been referred to the Inspector General for investigation.

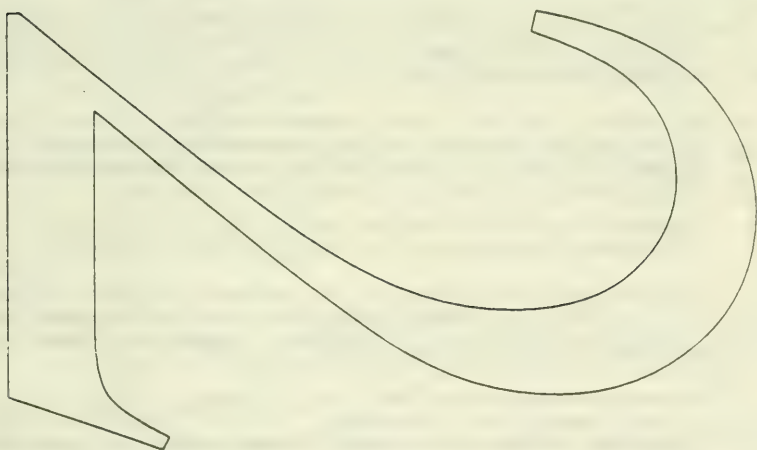
## BACKGROUND:

- o CMS is a Specialized SBIC that was licensed on 3/14/79 and it has \$1.4 million in private capital and \$3.4 million in SBA leverage.
- o In June 1992, Licensee initiated two non-cash transactions with an associate (Central Arkansas Community Development Corporation) which were not consummated until September 1992:
  - It accepted a pool certificate backed by medical receivables valued at \$11.5 million and National Building Supply (NBS) stock valued at \$2.3 million as a contribution of non-cash assets which was represented as an increase in private capital.
  - Licensee received NBS stock valued at \$2.5 million for certain assets held by the Licensee which were reported by the Licensee to be of comparable value.
- o In October 1992, Licensee applied for \$6 million of leverage in the form of preferred stock based on the capital increase consummated in September 1992.
- o On December 8, 1992, Licensee:
  - Was reminded that, as a matter of policy, SBA does not leverage capital contributed in the form of non-cash assets until such assets are converted to cash.

- Was advised that an examination of the Licensee's operations would be needed before any leverage could be provided.
- Was advised that approval of disposition of assets to an associate would be conditioned on the Licensee converting the NBS stock into \$2.5 million of cash within 120 days.
- Was advised that the \$6 million leverage application was being returned.
- o On December 9, 1992, SBA agreed to accept a \$1.4 million leverage application based on the licensee's representation that:
  - the medical receivables were free and clear of liens and encumbrances and
  - the licensee would dispose of the NBS stock received in exchange for Licensee assets within 120 days.
- o On March 11, 1993, the Examination report on the Licensee was issued. Among other things, the examiner was not able to determine the source of the donated assets. The examiner reported that there was a reluctance on the part of the Licensee's management to disclose any information concerning the source of the donated assets.
- o On March 26, 1993, an examination letter was sent advising the Licensee of the results of the examination and stating that the leverage application would not be processed until the regulatory matters were resolved. The letter also provided the Licensee another opportunity to explain the source of the non-cash assets.
- o On April 23, 1993, SBA received the Licensee's response to the Examination letter. Answers to questions concerning donated assets were not provided. Instead, the Licensee stated that they would reverse the transactions and that no explanation should be necessary.
- o On May 5, 1993, the matter was referred to the Office of Inspector General for investigation with the expectation that the source of the contributed assets will be identified. Licensee was advised that they were not responsive to the examination letter and that the matter had been referred to the Inspector General.



G





## DATE:

TO: Joseph L. Newell  
Director, Office of Investment

THRU: Phyllis E. Dawson  
Chief Area II, Office of Investment

FROM: Walter Peterson  
Financial Analyst, Office of Investment

SUBJ: Capital Management Services, Inc.  
License No: 06/06-5207

This memorandum is to provide a chronology of events regarding the above SSBIC's application to SBA for preferred stock leverage and the subsequent referral of this matter by the Investment Division on May 5, 1993 to SBA's Inspector General (IG) for an investigative evaluation.

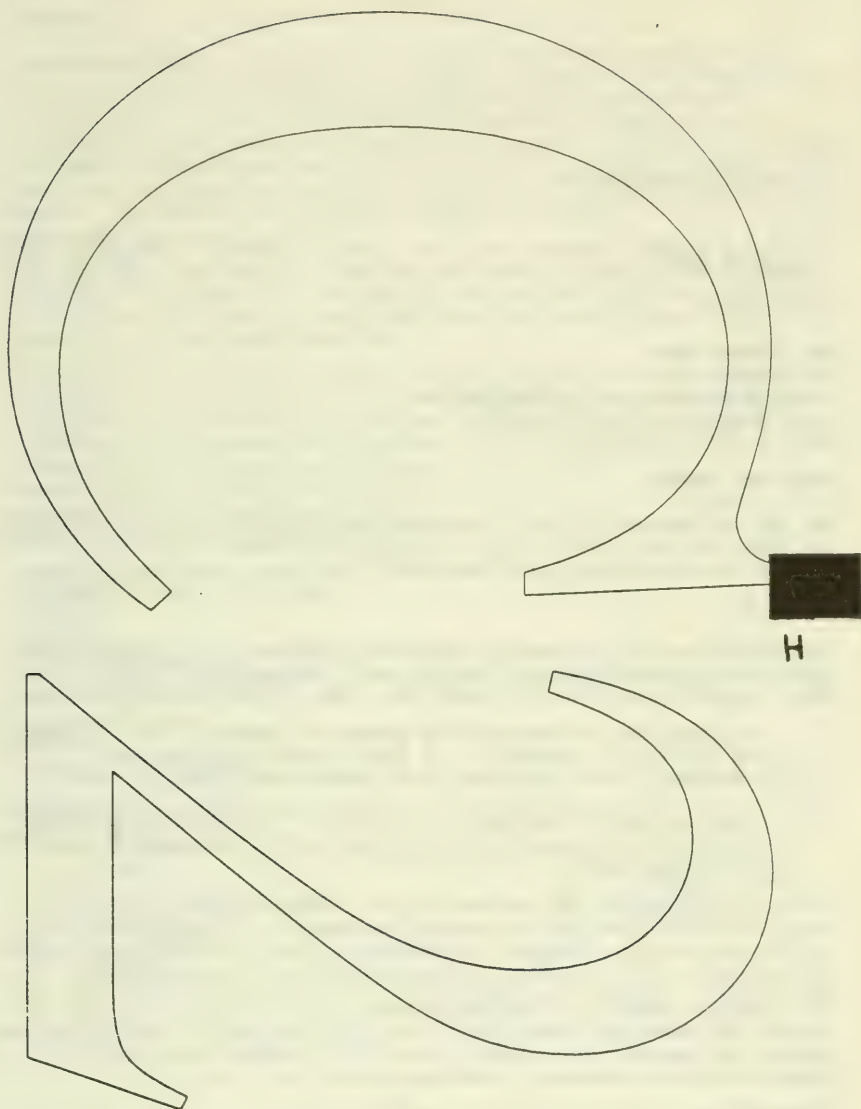
## CHRONOLOGY

1993

- May 5 Following a review of this matter by SBA's Acting Administrator, a letter is sent to the licensee setting forth SBA's decision to refer the matter to SBA's IG for an investigative evaluation and a memorandum requesting such an evaluation is transmitted to the IG.
- April 23 The Office of Investment (OI) receives a letter from the Licensee responding to OI's examination letter dated March 26, 1993. Answers to questions concerning donated assets are not provided.
- April 19 SBA sends a letter to the Licensee stating it is willing to review and comment on the agreements of reversal in connection with our review of the Licensee's response to OI's examination letter of March 26, 1993.
- April 14 Licensee sends to OI a facsimile transmittal of unexecuted agreements of reversal for SBA approval.
- April 7 The Associate Administrator for Investment sends a letter to Ms. Kathy D. McCoy responding to her request to President Clinton for assistance concerning financing from an unidentified SBIC in Arkansas.
- April 1 Peterson telephones Ms. McCoy to inquire as to the status of her search for financing. In the course of the conversation certain statements are made which suggests that the assets donated to the Licensee are not free and clear of encumbrances as has been represented by the Licensee in its leverage application.

- March 26 OI sends to the Licensee an examination letter and a copy of SBA's Examination Report dated March 11, 1993 for the 24-month period ended November 30, 1992. OI's letter stated that the Licensee's March 9th plan was not acceptable and OI is withdrawing the Licensee's application for \$1.4 million of preferred stock leverage until the regulatory issues are resolved.
- March 11 The Acting Director of SBIC Examinations sends an Examination report on the Licensee to OI. The transmittal letter states that "We believe the donation and exchange of assets raises serious questions, such as potential conflict of interest transactions, which we could not pursue because of Mr. Anderson's refusal to answer our questions regarding CACDC's source of the stock and accounts receivable. Without additional information, we believe the potential for undisclosed material facts exists in the transactions, including the potential for illegal activity."
- March 9 A letter from the licensee to SBA dated March 9, 1993 indicated that the licensee intends to sell, with SBA approval, National Building Supply stock and medical accounts receivable over a period of six to eighteen months.
- Feb. 19 David Hale, president of CMS met with Wayne Foren, Ned Shepperson, Joseph Newell, Phyllis Dawson, and Walter Peterson of the Investment Division at SBA headquarters. The purpose of the meeting was to discuss the licensee's leverage application and the concerns which have been raised as a result of processing that application as well as those which have developed in the course of a recent SBA examination.
- Hale stated that he wanted to reverse the disposition of assets to an Associate (the NBS transaction) and donated capital transaction in an orderly fashion. Hale was told to send a letter to SBA for our approval of the licensee's plan to reverse the transactions.
- 1992
- Dec. 18 A confidential memorandum outlining certain transactions which should receive special attention was sent from OI to the examiner in the San Francisco District Office who would be responsible for the forthcoming examination of the Licensee.
- Dec. 9 The licensee submitted an application for \$1.4 million of preferred stock leverage.

- Dec. 9 OI sent a letter to the licensee agreeing to accept a fully executed leverage application package subject to the understandings that the medical accounts receivable transferred to the licensee from Central Arkansas Community Development Corporation ("CACDC") are free of liens and encumbrances and the licensee would dispose of certain assets received from an Associate for cash within 120 days.
- Dec. 9 Meeting at SBA with James Hall III, director of Capital Management Services. Present from SBA: Foren, Klapp, Dawson and Peterson. Capital Management's preferred stock application for \$1.4 million was discussed. Foren repeated that it is SBA policy not to leverage non-cash assets. A new examination is required because the last exam is two years old.
- Dec. 8 OI sent a letter to the licensee concerning \$13.8 million of assets donated to the Licensee stating the assets would not be recognized for regulatory capital purposes until converted to cash, and approval of the disposition of assets to an Associate was conditional on these assets being converted to cash within 120 days. OI again returned the \$6 million application for preferred stock leverage because of insufficient private capital.
- Dec. 1 OI sent a letter to the licensee again returning its preferred stock application because the licensee does not have the requisite amount of regulatory capital for \$6,000,000 of additional leverage.
- Oct. 28 OI returned the preferred stock application to the licensee because it did not have the requisite amount of regulatory capital for \$6,000,000 of additional leverage. The licensee was also asked to supply certain information concerning donated assets.
- Oct. 15 Licensee files an application of \$6.0 million of preferred stock leverage.





INV 6-1-1

BY FACSIMILE AND MAIL

MAY 5 1993

LICENSE NO: 06/06-5207

Mr. David Hale  
President  
Capital Management Services, Inc.  
1910 North Grant, Suite 200  
Little Rock, Arkansas 72207

Dear Mr. Hale:

We are in receipt of your letter dated April 20, 1993, responding to SBA's letters dated March 26, 1993 and April 19, 1993. In this regard, we have the following comments:

**Finding 1**

You submitted the following agreements between the licensee and Central Arkansas Community Development Corporation (CACDC) for SBA's approval in order to meet the requirements of Finding 1:

1. An unexecuted "Agreement of Reversal" between the Licensee and CACDC with respect to a "Contribution Agreement" executed by such parties on or about September 30, 1992.
2. An unexecuted "Agreement of Reversal" between the Licensee and CACDC with respect to an "Assignment Agreement" executed by such parties on or about June 1, 1992.

As we indicated in our letter to the Licensee dated April 19, 1993, SBA would review the above agreements in connection with our review of the Licensee's response to SBA's examination letter of March 26, 1993. However, we are unable to review these agreements, because the Licensee's letter of April 20, 1993 did not include answers to the questions raised in our examination letter of March 26, 1993 under Finding 1 concerning the 1,000,000 shares of National Building Supply, Inc. common stock and the donated medical accounts receivable (\$11,532,782).

Furthermore, despite repeated requests from SBA, the licensee has been unwilling to provide a full explanation regarding the issues raised in the Examination Report under Finding 1. Consequently, this matter has been referred to SBA's Inspector General for an investigative evaluation.

## Finding 2

Acceptance of the licensee's argument that the transactions referred to in the Examination Report should not be recorded as "Notes and other securities received on sale of portfolio securities" requires proof that "financial assistance" was provided to the small business concerns. SBA is willing to review evidence which demonstrates that the small business concerns have used the portfolio securities in question to promote their growth, expansion and modernization, as contemplated by the Act.

The licensee's letter of April 26, 1993 states, with respect to Med-A-Corp, that "This financing has been satisfied in full." Please provide SBA with copies of the documents showing terms, conditions and dates of such satisfaction including proof of bank deposits for any cash received.

Our examination letter request, that interest no longer be accrued on the Castle Sewer and Water/Southloop Construction loans, was not intended to create legal problems for the licensee. The request was intended to avoid full income recognition on a delinquent loan. The licensee is able to maintain an interest receivable on its books by following the instructions in Appendix II to Part 107 - Chart of Accounts for SBICs (see account Nos. 143 and 144).

Please direct any questions regarding these matters to Walter Peterson at 202-205-7594.

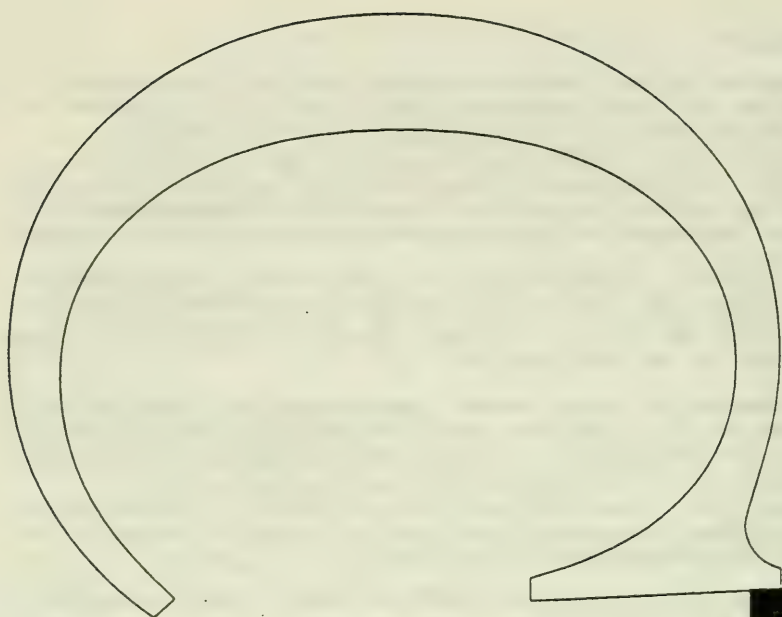
Sincerely,

*Joseph L. Newell*  
Joseph L. Newell  
Director  
Office of Investment

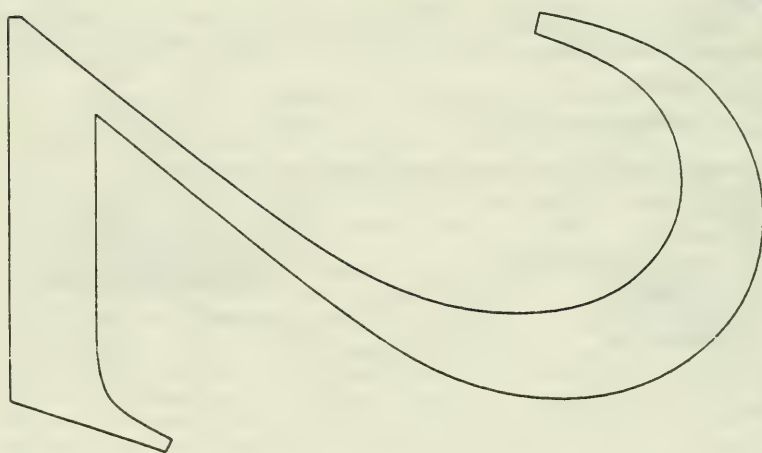
OI:Peterson/5/3/93:final:mjg:5-3-93:revised:mjg:5-3-93

cc: Area II  
INV-6-7-1  
Peterson  
OIG - Mail Code 4112  
OE - Chestnut  
OE - Campbell  
Code D-19  
S:cmsaud7.wp

Peterson *WJ 5/4/93*  
Dawson *5-3-93*  
*COOPER*



I



CAPITAL MANAGEMENT SERVICES, INC.  
1910 N. GRANT  
LITTLE ROCK, AR 72207

TELECOPIER TRANSMITTAL INFORMATION SHEET

DATE May 5, 1993

NUMBER OF PAGES(INCLUDING COVER) 2

TO: Mr. Joseph L. Newell

COMPANY: U. S. Small Business Administration

TELECOPIER # (202) 205-6959 VOICE # (202)205-6510

FROM: David L. Hale, President

COMPANY: Capital-Management Services, Inc.

TELECOPIER # (501)-664-6302

VOICE # (501) 664-8613

MESSAGE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE INFORMATION CONTAINED IN THIS TELECOPY IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL, PRIVILEGED, AND/OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT THE INTENDED RECIPIENT YOU ARE NOT AUTHORIZED TO THIS TRANSMITTAL AND HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. THIS TRANSMISSION IS NOT INTENDED TO WAIVE ANY CONFIDENTIAL OR PRIVILEGED RELATIONSHIP. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS.



## CAPITAL-MANAGEMENT SERVICES, INC.

SUITE 200 • 1810 NORTH GRANT  
LITTLE ROCK, ARKANSAS 72207  
501/684-8813

May 5, 1993

Mr. Joseph L. Newell  
Director  
Office of Investment  
U.S. Small Business Administration  
409 3rd Street, S.W. -8th Floor  
Washington, D.C. 20416

Re: Your letter dated May 5, 1993

Dear Mr. Newell:

I am shocked at your letter under Finding 1. In our meeting of February 19, 1993 you specifically stated that the reversal of the transaction would satisfy SBA in full. In further conversations with you office it was explained that this was the intent of the SBIC, however, we wanted your office to approve the documents, as you requested, before the reversal was made. We mailed you copies of the proposed documents and on April 19, 1993 you indicated that both by letter and telephone that this was the right course of action and if we intended to keep or sell the assets for cash then the additional information would be needed.

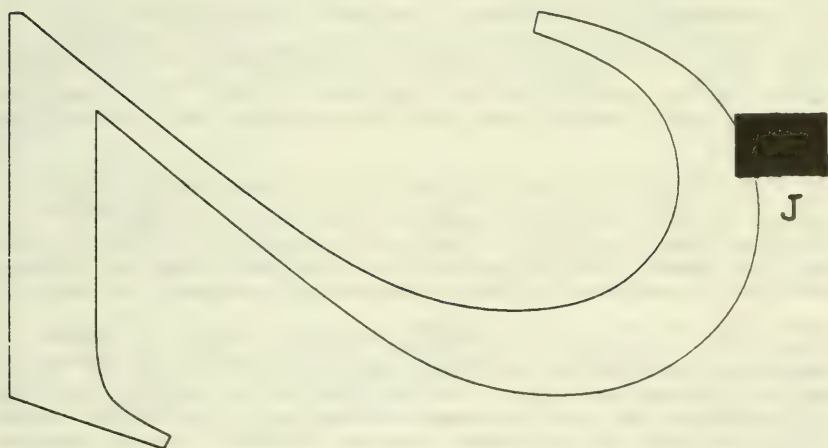
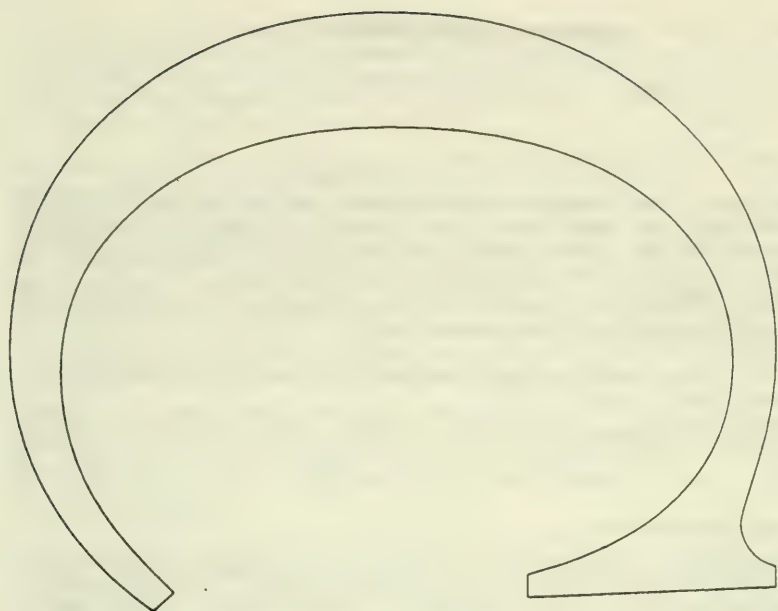
It was our total understanding that this reversal would satisfy Finding 1. If you wish the additional information as set out in your letter of March 26, 1993 we will provide you with the information as to the best of our abilities by May 12, 1993. Should certain information be unavailable to us then we will seek your guidance.

You state in your letter of May 5, 1993 that "despite repeated request from SBA, the licensee has been unwilling to provide a full explanation regarding the issues raised in the Examination Report under Finding 1". Please furnish to us, if possible by fax today, copies of written request or other documentation that repeated request has been made for any information since the issues were raised in your letter of March 26, 1993 concerning Finding 1. We are unable to locate or remember any such request. The only written communication from your office since the March 26, 1993 letter that we are able to locate is the letter dated April 19, 1993.

We want to provide you with any and all information that we have available and cooperate with you in every way and as I have explained to Mr. Walter Peterson we want you to approve our every step and that we have the full understanding between the SBIC and SBA. Our goal and intent to do everything that you want us to do. We apologize if there has been any misunderstanding, however, we want to emphasize that we thought that we were doing everything that you requested.

Capital-Management Services, Inc.

By [Signature] Federal Licensee under the Small Business Investment Act of 1958  
President



PERSONAL & CONFIDENTIAL

May 13, 1993

Wayne,

I spoke with David Hale at 1:00 today regarding the tentative Arkansas trip to meet with the Governor, Arkansas Development Finance Authority (ADFA) and one other group that David couldn't remember plus any other group you feel should be at the discuss of the SBIC Program and the "Community Banking" concept. David would like to know when we expect to arriving so he can confirm the time with the Governor and other attendees.

There is only one contract carrier to and from Little Rock available June 3, 1993.

Washington/Dulles (7:10am) via St. Louis to Little Rock (10:31am)  
Depart Little Rock (6:00pm) via St. Louis to Wash/Dulles (11:02pm)

**For Your Information:**

After David and I finished our conversation regarding the Little Rock trip he told me of his recent SSBIC audit, conversations and correspondence with Walter Peterson, Marvin Klapp, Joseph Newell and you.

If I understood what David said, 'we have shut his SSBIC down'. It all started when Tom Anderson, Manager of his SSBIC approached a group from England who is involved in Factory Built Homes among other things. The group took \$15 million of their assets consisting of stock, medical receivables etc., from American companies and invested them into Tom Andersons CDC, "no strings attached".

Tom received a legal opinion from a Little Rock law firm stating that under SSBICs Rules and Regulations it would be acceptable for him to "donate" "surplus assets" to the SSBIC managed by Tom. Acting on that legal opinion, Tom took the \$15 million surplus from his CDC, made a gift or donation to the SSBIC with no strings attached, no exchange of stock, ownership, management or control.

David came to Washington, spoke to Marvin Klapp who agreed to accept the \$15 million as the SSBICs private capital providing the assets are sold and converted to cash prior to leverage, he argued but our decision was final. He consented to our decision and was in the process selling the assets when he meet with you and Joseph Newell who told him the assets are not acceptable and to reverse the entry.

During subsequent conversations with our office Walter Peterson told him not to sell the assets or reverse the entry. Then, our examiners did an audit, asked Tom Anderson questions that he felt could not be answer without the approval of the England group and everything is now at a stand still.

He said several letters have been written regarding the transaction and by him putting everything back the way it was is no longer acceptable to us until he answers all the questions regarding the 'donation'. He said he has provided us with all the information he has and simply wants to know what else we want him to do.

He recently sent us a letter and did not receive a reply. He called our office, Walter told him we were reviewing his letter and would get back to him. He wrote a second letter with no response, called for Joseph Newell and was transferred to Walter and received the same answer. According to David, no one has returned his calls.

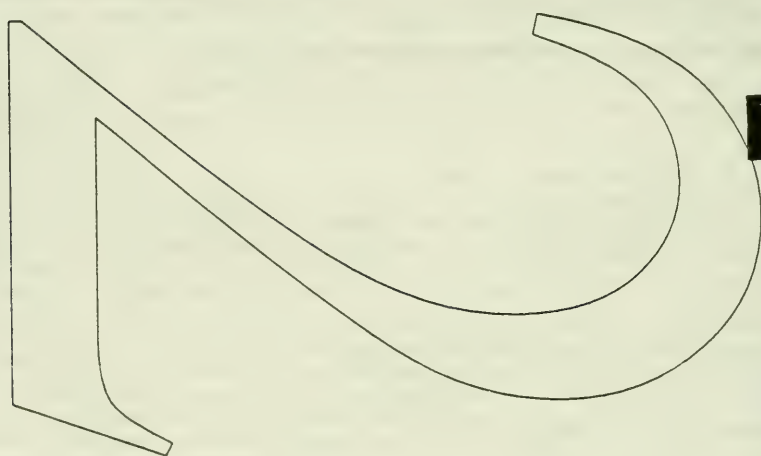
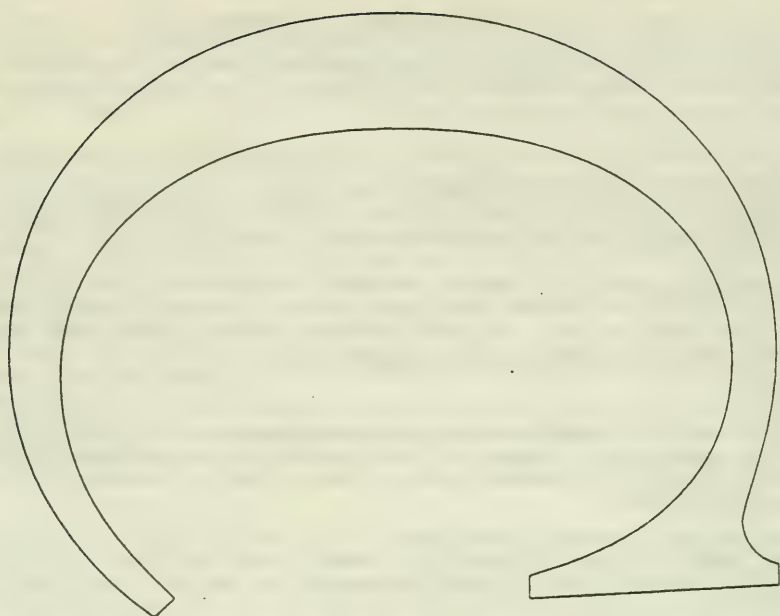
He told me that Joseph Newell and Walter Peterson both spoke with the 'England group', he gave us their names, address and everything he has and still we referred this to the Inspector Generals Office for investigation.

He has other investors interested in his SSBIC however, he can't enter into a contract with this investigation pending and he's unable to reverse the \$15 million transaction or sell the assets.

His major concern is taking a loss on the \$15 million during this holding period which he could be liable for an undetermined amount of money, not to mention the loss his SSBIC is facing.

David ask that I share this information with you.





K

CAPITAL MANAGEMENT SERVICES, INC.  
LITTLE ROCK, ARKANSAS  
License No. 06/06-5207  
May 19, 1993

## SUMMARY:

- o Non-cash assets were contributed to CMS as a capital contribution that were represented to be free and clear of liens and encumbrances. It is questionable as to whether this representation was correct. CMS attempted to obtain leverage from SBA based on this increase in capital.
- o Licensee transferred certain assets to an associate in exchange for stock which was represented to be non-restricted stock listed on NASDAQ. The stock is restricted and not listed on NASDAQ. The value of this stock is questionable.
- o We have attempted to obtain the source of the donated assets without success. Therefore, the matter has been referred to the Inspector General for investigation.
- o CMS did not make interest payments on two debentures. The Investment Division is scheduling a pre-liquidation meeting for May 21 at 10:00.

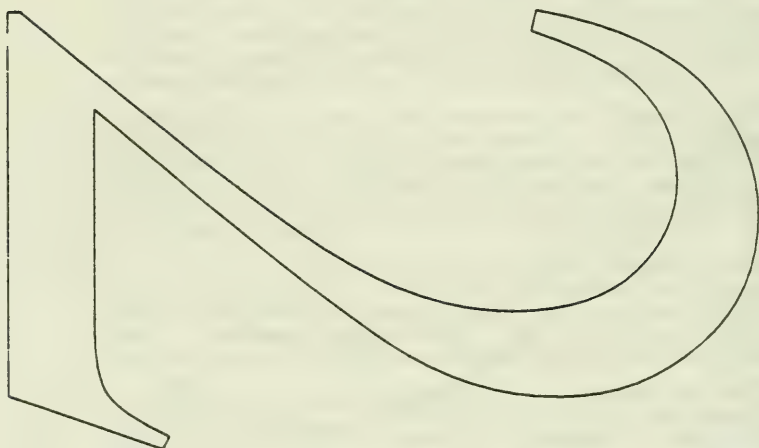
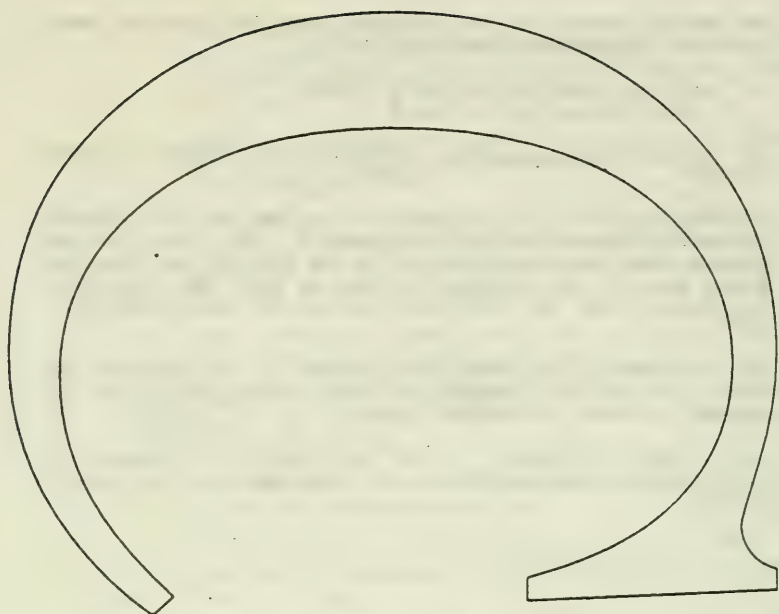
## BACKGROUND:

- o CMS is a Specialized SBIC that was licensed on 3/14/79 and it has \$1.4 million in private capital and \$3.4 million in SBA leverage.
- o In June 1992, Licensee initiated two non-cash transactions with an associate (Central Arkansas Community Development Corporation) which were not consummated until September 1992:
  - It accepted a pool certificate backed by medical receivables valued at \$11.5 million and National Building Supply (NBS) stock valued at \$2.3 million as a contribution of non-cash assets which was represented as an increase in private capital.
  - Licensee received NBS stock valued at \$2.5 million for certain assets held by the Licensee which were reported by the Licensee to be of comparable value.
- o In October 1992, Licensee applied for \$6 million of leverage in the form of preferred stock based on the capital increase consummated in September 1992.
- o On December 8, 1992, Licensee:

- Was reminded that, as a matter of policy, SBA does not leverage capital contributed in the form of non-cash assets until such assets are converted to cash.
- Was advised that an examination of the Licensee's operations would be needed before any leverage could be provided.
- Was advised that approval of disposition of assets to an associate would be conditioned on the Licensee converting the NBS stock into \$2.5 million of cash within 120 days.
- Was advised that the \$6 million leverage application was being returned.
- o On December 9, 1992, SBA agreed to accept a \$1.4 million leverage application based on the licensee's representation that:
  - the medical receivables were free and clear of liens and encumbrances and
  - the licensee would dispose of the NBS stock received in exchange for Licensee assets within 120 days.
- o On March 11, 1993, the Examination report on the licensee was issued. Among other things, the examiner was not able to determine the source of the donated assets. The examiner reported that there was a reluctance on the part of the Licensee's management to disclose any information concerning the source of the donated assets.
- o On March 26, 1993, an examination letter was sent advising the Licensee of the results of the examination and stating that the leverage application would not be processed until the regulatory matters were resolved. The letter also provided the Licensee another opportunity to explain the source of the non-cash assets.
- o On April 21, 1993, SBA received the Licensee's response to the Examination letter. Answers to questions concerning donated assets were not provided. Instead, the Licensee stated that they would reverse the transactions and that no explanation should be necessary.
- o On May 5, 1993, the matter was referred to the Office of Inspector General for investigation with the expectation that the source of the contributed assets will be identified. Licensee was advised that they were not responsive to the examination letter and that the matter had been referred to the Inspector General.

- o On May 7, 1993, ID was advised that CMS has not made interest payments on two debentures:
  - \$14,867 was due on March 3 and
  - \$35,952 was due on March 17.
- o By letter of May 10, 1993, CMS was given 7 days to make payment.
- o On May 18, 1993, David Hale was called by the Account Executive concerning the non-payment. Mr. Hale stated that a check was in the mail for the \$14,867 and that he would have to sell assets to come up with the \$35,952. He advised that the check would be in the mail on May 19, 1993.
- o ID confirmed that there was enough in the account to cover the \$14,867 check; however, there would not be enough to cover the second check.
- o Our normal procedure is to transfer a licensee to liquidation when payments are not made in a timely manner.





L

## PRIVILEGED AND CONFIDENTIAL

Date: June 14, 1993

To: Charles Mezger, Acting Director  
Office of Examinations

Phyllis Dawson, Chief Area II  
Office of Investment

From: Joseph L. Newell, Director  
Office of Investment *Joseph L. Newell*

Subject: Capital-Management Services, Inc.  
Little Rock, Arkansas  
License No. 06/06-5207

At about 4:00 P.M., I returned a call from:

Special Agent David Reign  
Federal Bureau of Investigation  
18825 Financial Centre Parkway  
#2 Financial Center, Suite 200  
Little Rock, Arkansas 72211.

His telephone number is (501) 221-9100. He advised that he had been referred to me by SBA's Office of the Inspector General.

He also advised that he was working with the U.S. Attorney's Office, and he requested the following information:

1. Copies of the SBA examiner's workpapers for the examination of the Licensee for the period ended November 30, 1992. He expressed an interest in "Findings" Numbers 1 and 2, but a greater interest in "Other Matters".
2. A copy of the prior examination report.
3. A copy of the Licensee's Preferred Stock Leverage Application filed October 8, 1992 and all related correspondence.
4. A copy of the Licensee's Annual Report, SBA Form 463, including the IPA Report, for the FYs 6-30-91 and 6-30-92.

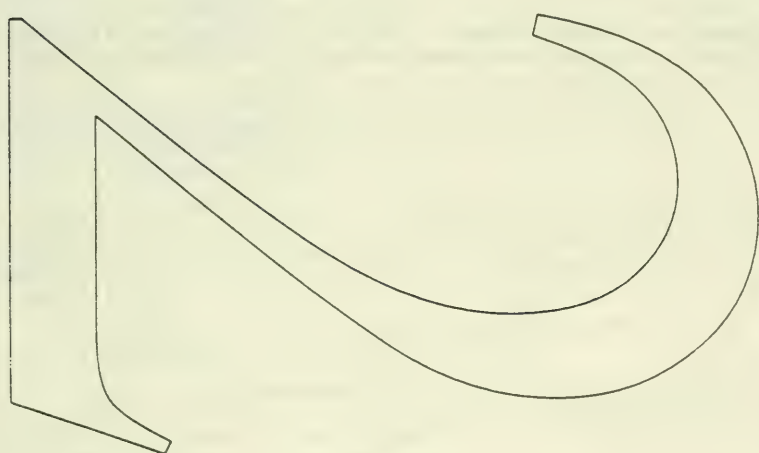
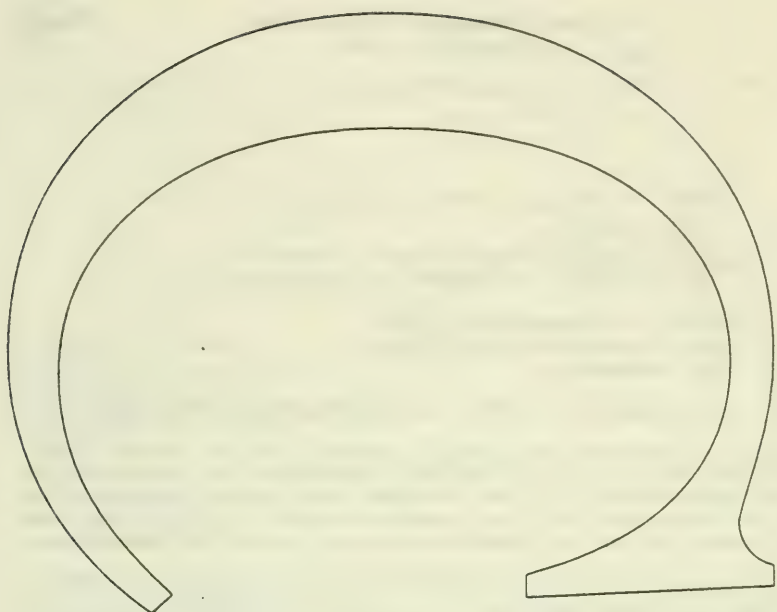
5. Copies of SBA Forms 1031 filed by the Licensee for the following SBCs:
- a. Autometrics
  - b. Arkansas Commercial Realty
  - c. Property Care, Inc.
  - d. Cole Masonry & Construction, Inc.
  - e. Midwest Consulting
  - f. Med-A-Corp
  - g. Incredible Closeout
6. Telephone numbers for Autometrics and Med-A-Corp which he said was known to the SBA examiner.
7. Copies of third-party correspondence (if any) seeking information from SBA about National Building Supply, Inc., and First Dominion Financial Group.
8. Copies of any prior referrals to the OIG re: Capital-Management Services, Inc. over the last five (5) years.

S/A Reign stated that the FBI inquiry, at this time, is limited to information available from other than "public" sources e.g. their files and SBA files but not SEC files.

Items numbers 1, 2 and 6 should be provided by the Office of Examinations directly to Special Agent David Reign. The balance of this request will be handled by the Office of Investment.

THIS INQUIRY SHOULD BE TREATED AS CONFIDENTIAL.

cc: Foren ✓  
Shepperson



M





U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



DATE: August 4, 1993

TO: Janice E. Wolfe  
Acting Associate Deputy Administrator  
for Finance, Investment and Procurement

FROM: Charles E. Shepperson *ced*  
Deputy Associate Administrator  
for Investment

SUBJECT: Fraud Against the SBA--Capital Management Services, Inc.

On August 3, we received the attached letter from the United States Attorney, Eastern District of Arkansas concerning the investigation of Capital Management, Inc. We referred this case to the Inspector General for investigation. The Inspector General referred the case to the Federal Bureau of Investigation due to lack of resources.

The U.S. Attorney's letter describes instances where the licensee, David Hale, has submitted false and fraudulent statements etc. I have also attached Joe Newell's analysis of the U.S. Attorney's letter.

I mentioned this case to Marty Teckler today and we will get together with his staff later today to discuss the proper course of action.

United States Attorney  
Eastern District of Arkansas

Post Office Box 1227  
Little Rock, Arkansas 72203

July 29, 1993

Mr. Roger Peterson  
Small Bus. Administration  
409 3rd Street, S.W.  
Investment Division, 6th Floor  
Washington, D.C., 20416

Re: Capital-Management Services, Inc.  
06-06-5207

Dear Mr. Peterson:

The transactions I told you about runs like this.

A stock broker in Little Rock, Arkansas, had control of an account of some people from Louisiana, which had over a million in cash in it. On November 4, 1988, he transferred from the account \$800,000.00, to Capital-Management Services, Inc., \$400,000.00, went into a savings account, and \$400,000.00, in the form of cashier checks "paid" off two delinquent loans Capital-Management Services, Inc., had on its' books and made a payment on a third. Effect - debit \$800,000.00 cash, credit loans and accrued interest \$400,000.00 and credit capital \$400,000.00. On the basis of new capital, now documented by the Savings account and the issuance of new stock, David Hale applied for \$900,000.00 in SBA leverage.

Over the course of the next week, David Hale created three new "loan/equity positions" in three "companies" and funded them in a total of \$800,000.00. The "borrowers" then cut checks totalling \$800,000.00 to return the money to the brokerage account. See attached chart.

I view this as \$400,000.00 bogus private capital and three bogus "loan/equities". What is SBA's view?

I think something similar occurred in March, 1986, on a \$1,500,000.00 leverage on the basis of \$502,000.00 in new "capital". I need all the documents that can be located on the 1986 leverage.

Also, in early 1988, David Hale applied for leverage and was turned down. Please send what can be found about this.

Page 2  
July 29, 1993

Also, I would like the material on the 1983 leverage.

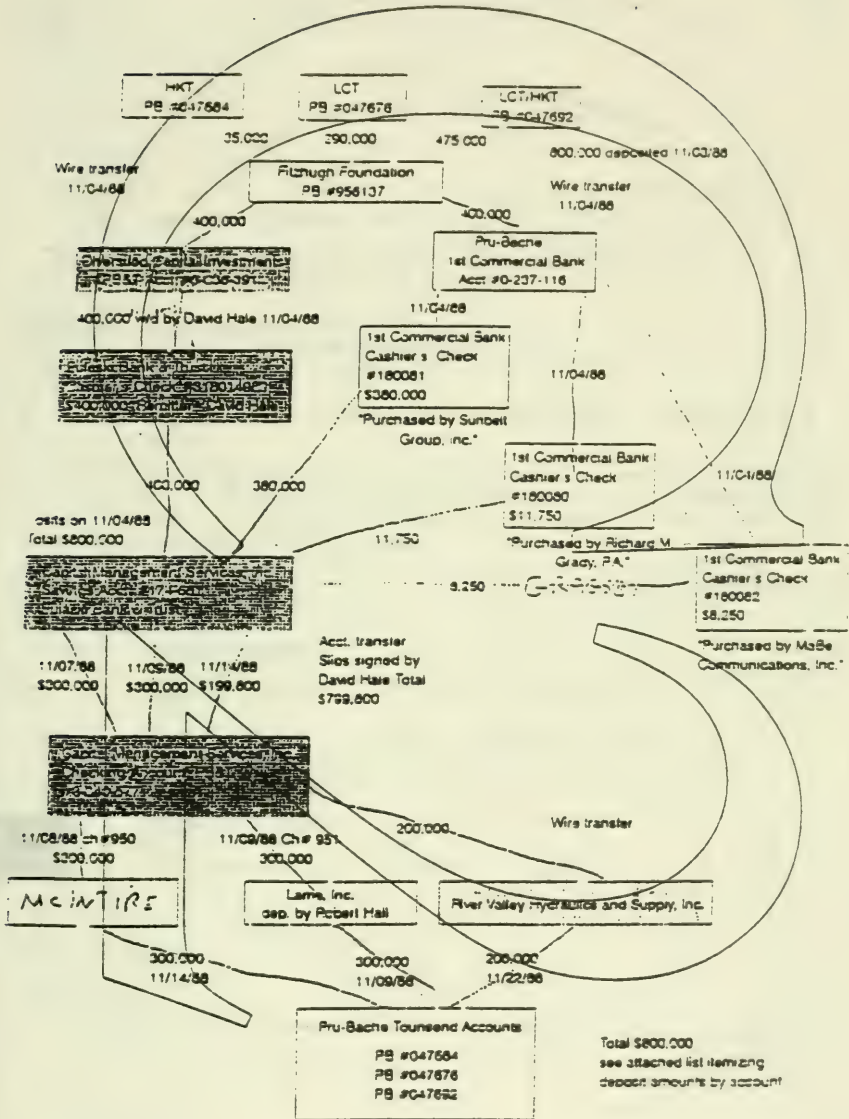
Yours truly,

RICHARD M. PENCE, JR.  
United States Attorney

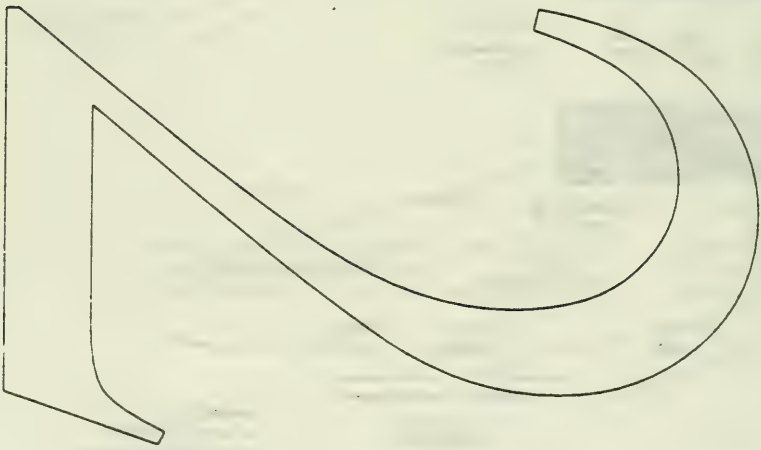
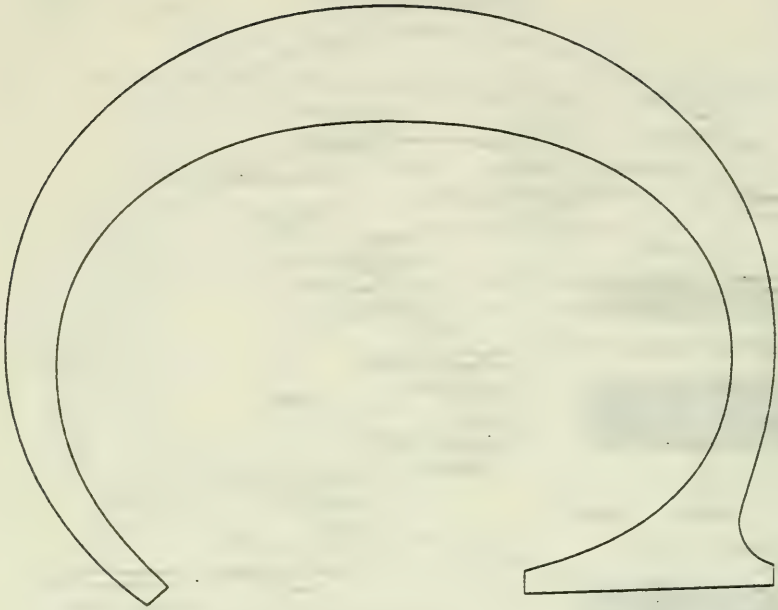
FLETCHER JACKSON  
Assistant U.S. Attorney

FJ/skg  
Encls.

## Transaction One







Z

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



DATE:

TO: See Distribution Below

FROM: Associate Administrator  
for Investment

SUBJECT: Liquidation Conference  
Capital Management Services, Inc.  
License No. 06/06-5207

Attached is a conference memorandum on the subject  
SBIC.

In accordance with the applicable procedures, a meeting  
will be held in my office at 2:00 P.M. on August 16,  
1993 to decide on action to be taken by SBA as a  
regulator and creditor.

We would appreciate it if you or your designee would be  
in attendance.

Distribution:

Ronald Cibolski - Office of Liquidation

Marty Teckler - Office of General Counsel

Mark Stephens - Office of General Counsel

Wayne S. Foren - Investment Division

Ned Shepperson - Investment Division

Wayne S. Foren

Attachment

## PRIVILEGED AND CONFIDENTIAL

## PROFILE

August 4, 1993

1. Licensee:

Capital Management Services, Inc.  
 1910 North Grant, Suite 200  
 Little Rock, Arkansas 72207  
 License No. 06/06-5207  
 Telephone No. (501) 664-8613

2. Organization and Management:

(a) Licensed: March 14, 1979

(b) Officers, Directors and Owners:

<u>NAME</u>	<u>TITLE</u>	<u>% of Ownership</u>
David L. Hale 2823 N. Pierce Little Rock, AR	President/ Director	82%
Linda Sue Hale 2823 N. Pierce Little Rock, AR		9%

Hazel Dennis  
 10455 Julie Beth  
 Cypress, CA

9%

James Hall  
 5712 Cadron Creek  
 North Little Rock, AR

Secretary/  
 Director

George S. Ivory  
 8815 Beck  
 Little Rock, AR 72204

Vice President

3. Financial Condition (unaudited as of Sept. 30, 1992)ASSETS

Loans & Invest (cost)	\$2,214,402
Unrealized Deprec.	0
Unrealized Apprec.	0
Loans & Invest (value)	2,214,402
Cash & Idle Funds	51,819
Other Assets	16,487,740
<b>Total Assets</b>	

\$18,753,961

**LIABILITIES**

SBA Guaranteed Debt	\$2,000,000
Other Liabilities	<u>70,293</u>
Total Liabilities	\$2,070,293

**CAPITAL**

Private Capital	\$15,166,092
SBA Preferred Stock	\$ 1,400,000
Unrealized Gain (Loss)	(28,759)
Non-Cash Gain/Income	0
Undis. Real. Earn. (Loss)	<u>146,335</u>
Total	\$16,683,668

Total Liabilities and Capital	\$18,753,961
-------------------------------	--------------

4. Outstanding SBA Debt:

<u>Principal Balance</u>	<u>Loan Number</u>	<u>Dist. Date</u>	<u>Mat. Date</u>	<u>Int. Rate</u>
\$ 500,000	01344600-04	12/09/83	11/30/93	12.50%
\$1,000,000	01436600-07	09/10/86	09/08/96	7.75%
\$ 500,000	01455000-09	01/22/89	03/17/99	9.00%
<u>Preferred Stock:</u>				
\$1,500,000	05010500-02	09/30/89		3.000%

5. Violations:Violation of Section 107.906 (b) False Statement.

The Licensee is in violation of Section 107.906 (b). There are eleven instances of false statements cited in items 1 through 7 of the attached memorandum (RE: FRAUD AGAINST SBA).

6. Chronology of SBA's request for corrective action:

Since the licensee cannot rescind a false statement there is no request for corrective action.

7. Financial Condition:

In our opinion, the reported financial position of licensee as of 9/30/92 does not give a true picture of the underlying condition of the licensee. If the licensee's statement of financial position is adjusted to remove the donated capital and the shares of National Building Supply (NBS), which is insolvent, are written down to zero, the licensee's capital impairment is 171%, as shown on the adjusted Statement of Financial position. In addition, there are good reasons to believe that the Licensee's Portfolio Securities are materially overvalued.



## Statement of Financial Position

	9/30/92	Adjustment	Adjusted 9/30/92
Portfolio Securities Cost	\$2,214,402		\$2,214,402
Less Current Maturities	570,617		570,617
	1,643,785		1,643,785
<u>Current Assets</u>			
Cash	51,819		51,819
Interest and divds. rec.	197,149		197,149
Current portfolio mat.	570,617		570,617
Other current assets (NBS)	2,513,999	(2,513,999)	0
<u>Other Assets</u>			
Furniture and equip.	2,799		2,799
Other (donated assets)	13,773,793	(13,759,782)	14,011
Total Assets	18,753,961	(16,273,781)	2,480,180
Long Term Debt SBA	2,000,000		2,000,000
Current & other Liab.	70,293		70,293
<u>Capital</u>			
Paid in Capital & Surplus	15,166,092	(13,759,782)	1,406,310
3% Preferred Stock	1,400,000		1,400,000
Unrealized gain (loss)	(28,759)		(28,759)
Undist. Realized Earnings	146,335	(2,513,999)	(2,367,664)
Total Capital	16,683,668	(16,273,781)	409,887
Total Liab. and Capital	18,753,961	(16,273,781)	2,480,180
Capital Impairment	0.2%		171.1%

8. SBA Audit:

An Examination Report dated March 11, 1993 for the 24 - month period ended November 30, 1992 contained the following findings:

Finding 1 - Assets transferred to an Associate  
Overline investment  
Assets not properly safeguarded

Finding 2 - Sale of assets misclassified  
Misrepresentation to SBA

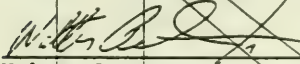
The Office of SBIC Examinations made the following statement in its transmittal letter:

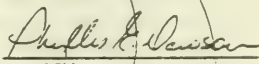
"We believe the donation and exchange of assets raises serious questions, such as potential conflict of interest transactions, which we could not pursue because of Mr. Anderson's refusal to answer our questions regarding CADC's source of the stock and accounts receivable. Without additional information, we believe the potential for undisclosed material facts exists in the transactions, including the potential for illegal activity."

In a March 26, 1993 examination letter to the licensee, the Office of Investment sought answers to questions concerning the source of the stock and accounts receivable. Since OI did not receive answers to these questions, it referred the matter to the IG on May 5, 1993 for an investigative evaluation. IG referred the matter to the FBI.

9. Recommendation:

It is recommended that the Licensee be transferred to the Office of Liquidation to commence appropriate legal and/or administrative action to protect the interest of SBA.

  
Walter Peterson  
Financial Analyst, Area II  
Office of Investment

  
Phyllis E. Dawson  
Chief, Area II  
Office of Investment



INVESTMENT DIVISION  
SUITE 6600

U. S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

MEMORANDUM

TO: SBIC Files INV 6-7-1

FROM: Joseph L. Newell, Director  
Office of Investment

RE: FRAUD AGAINST SBA  
Capital-Management Services, Inc.  
License No. 06/06-5207

DATE: August 3, 1993

*Joseph L. Newell*

Based upon information provided by the U.S. Department of Justice, United States Attorney, Eastern District of Arkansas, in a letter dated July 29, 1993 (copy attached), it is apparent that Capital Management Services, Inc. (the Licensee), has defrauded SBA of \$900,000 of leverage funds.

A review of the SBA files of the Licensee, in light of the information provided by the DOJ, disclosed the following:

1. False and fraudulent "Amendment to License Application" dated 11/04/88, signed by David L. Hale, filed under cover of letter dated 11/07/88 (signed by David L. Hale), falsely certifying to a bogus \$400,000 increase in the Licensee's private capital.
2. False and fraudulent letter dated 11/18/88, signed by David L. Hale, falsely reporting the source of the \$400,000 to be the proceeds (total \$864,000) from his wife's sale of a small commercial center.
3. False and fraudulent letter dated 11/12/88, signed by David L. Hale, falsely reporting the repayment in full of the Sunbelt Group, Inc. loan (\$380,000).
4. False and fraudulent "Application for Funds" (\$400,000 P/S and \$500,000 debentures) dated 11/04/88, signed by David L. Hale and filed under cover of letter dated 11/16/88, signed by David L. Hale.
5. False and fraudulent letter dated February 6, 1989, signed by David L. Hale, reporting receipt of an \$8,250.00 payment in November 1988 on the Mabe Communication, Inc., loan and payment in full of the Sunbelt Group, Inc. loan.

6. False and fraudulent filing of Portfolio Financing Reports, SBA Form 1031 as follows:
- A. Plant and working capital loan to Lame, Inc., in the amount of \$300,000, signed by David L. Hale and dated 11/09/88.
  - B. Equity in coins, expand operations and working capital loan in the amount of ~~\$300,000~~ to McIntire Numismatic Auctions, Inc. (McIntire) signed by David L. Hale and dated 11/07/88.
  - C. Inventory, equipment and operating capital loan to River Valley Hydraulics and Supply, Inc. (River Valley) loan in the amount of \$200,000 signed by David L. Hale and dated 11/11/88.
7. Ongoing and continuous false and fraudulent filings with SBA as follows:
- A. Annual Report, SBA Form 468, for the FYE 06/30/89 reports loans to Lame, Inc., McIntire and River Valley.
  - B. Annual Report, SBA Form 468, for the FYE 06/30/90 reports loans to Lame, Inc., McIntire and River Valley.
  - C. Annual Report, SBA Form 468, for the FYE 06/30/91 reports all loans reduced to -0- balances.
8. To maintain a cover-up of the bogus ~~financings~~ to Lame, Inc., McIntire, and River Valley; these securities have been exchanged for other securities issued by "questionable" entities at "questionable" values as discussed below:
- A. On 04/15/91, the outstanding financings of Retail Liquidators, Inc. (\$389,776), River Valley (\$248,413), Lame, Inc. (\$300,000) and Arkansas Commercial Realty (\$58,425) were exchanged for equity shares of:
 

Converging Systems, Inc.	\$ 400,000
Cyberspace Corp.	350,000
Patient Communications, Inc.	<u>250,000</u>
	\$1,000,000
  - B. On 02/12/91, the outstanding financings of McIntire (\$300,000), and Southern Foods (\$113,650) were exchanged for an equity investment in Med-A-Corp, Inc.
  - C. On 06/01/92, the equity positions in Converging Systems, Inc. (\$400,000); Cyberspace Corp. (\$350,000); Patient Communications, Inc. (\$250,000) along with 4 other financings were exchanged for stock of National Building Supply, Inc. with a reported value of \$2,514,000 as reported on the most recent financial statements filed with SBA.

SBA has questioned the value of the National Building



Supply, Inc. stock as well as the circumstances under which it came into possession of the Licensee.

- D. On 03/15/93, the ~~equity investment~~ in Med-A-Corp (\$420,000) was exchanged for an equity investment in FSA Financial Services, Inc. (FSA) (\$420,000).

SBA has questioned the existence of FSA and the values assigned to the exchange transaction. (See SBA letter August 2, 1993).



INVESTMENT DIVISION  
SUITE 6600  
U. S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

MEMORANDUM

TO: SBIC Files INV 6-7-1

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Office of Investment

RE: FRAUD AGAINST SBA  
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License No. 06/06-5207

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SBA Form 1031 as follows:

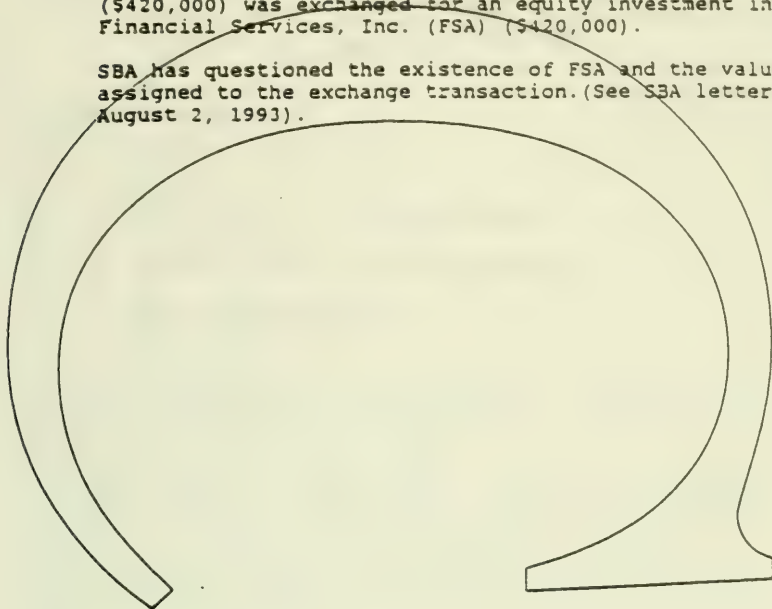
- A. Plant and working capital loan to Lame, Inc., in the amount of \$300,000, signed by David L. Hale and dated 11/09/88.
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Converging Systems, Inc.	\$ 400,000
Cyberspace Corp.	350,000
Patient Communications, Inc.	250,000
	<u>\$1,000,000</u>
  - B. On 02/12/91, the outstanding financings of McIntire (\$300,000), and Southern Foods (\$113,650) were exchanged for an equity investment in Med-A-Corp. Inc.
  - C. On 06/01/92, the equity positions in Converging Systems, Inc. (\$400,000); Cyberspace Corp. (\$350,000); Patient Communications, Inc. (\$250,000) along with 4 other financings were exchanged for stock of National Building Supply, Inc. with a reported value of \$2,514,000 as reported on the most recent financial statements filed with SBA.
- SBA has questioned the value of the National Building

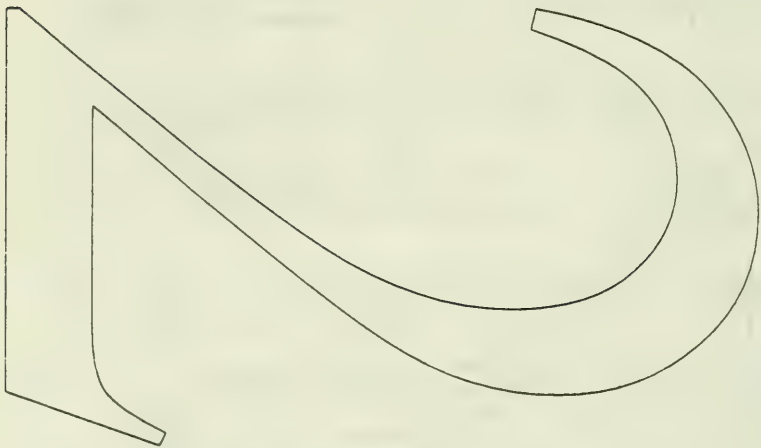
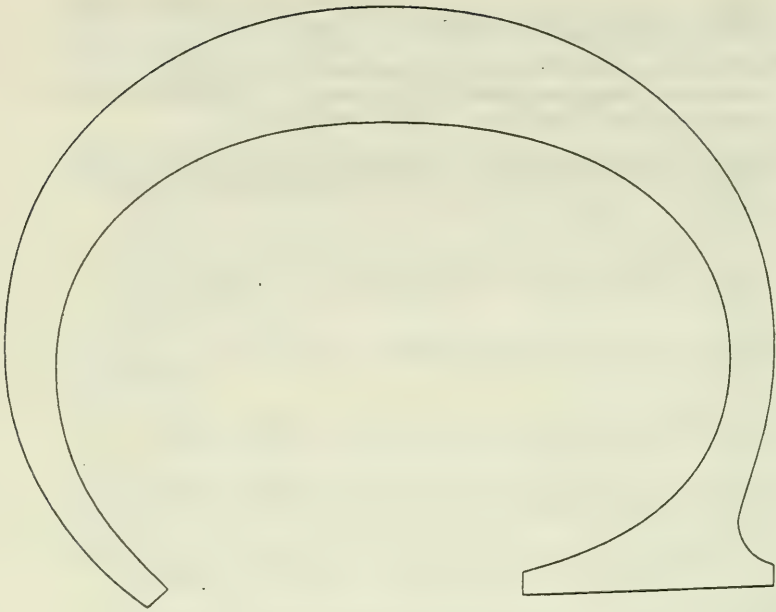
Supply, Inc. stock as well as the circumstances under which it came into possession of the Licensee.

- D. On 03/15/93, the equity investment in Med-A-Corp (\$420,000) ~~was exchanged for an equity investment in FSA Financial Services, Inc. (FSA) (\$420,000).~~

SBA has questioned the existence of FSA and the values assigned to the exchange transaction. (See SBA letter August 2, 1993).









U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



## MEMORANDUM

## PRIVILEGED AND CONFIDENTIAL

DATE: August 9, 1993

TO: Erskine B. Bowles  
Administrator

FROM: Wayne S. Foren *Mont D. Tucker*  
Associate Administrator for Investment

SUBJ: Capital-Management Services, Inc.  
Little Rock, Arkansas  
License No. 06/06-5207

This is to inform you that there have been significant new developments concerning the above-referenced Specialized Small Business Investment Company (SSBIC) that may lead to a criminal indictment of the manager of the SSBIC, Mr. David Hale.

On August 3, 1993, the Office of Investment received a letter from the United States Attorney, Eastern District of Arkansas, concerning the Licensee's 1988 application for \$900,000 in SBA leverage. In connection with the application, the Licensee is alleged to have engaged in a series of bogus transactions that caused SBA to believe that the Licensee had increased its private capital by \$400,000 and that problem investments had been repaid. On the basis of the Licensee's false statements, SBA approved funding in the amount of \$900,000.

We understand that the U.S. Attorney met with Mr. Hale and his attorney on August 6, 1993 and presented him with a draft indictment alleging that Mr. Hale and two other individuals defrauded the United States (SBA) in 1988. SBA was sent a copy of the draft indictment. SBA personnel from the Investment Division and the Office of General Counsel will meet with the FBI and the U.S. Attorney in Little Rock on August 10, 1993 to discuss the evidence against Mr. Hale and the SSBIC with a view towards placing the SSBIC into receivership.

We have also been informed by the Assistant U.S. Attorney that the licensee made false statements in a 1992 application for SBA leverage in the amount of \$6.0 million. The 1992 request for funds was not approved. Finally, the FBI and the U.S. Attorney are investigating the Licensee's 1986 and 1983 leverage applications to determine if fraud was involved.

*WSP*  
*10/15/93*  
*10/15/93*  
*9/20/93*

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

UNITED STATES OF AMERICA )

VS. )

DAVID L. HALE;  
CHARLES MATTHEWS; AND  
EUGENE FITZHUGH;

LR-CR-93-

) 18 U.S.C. §371  
) 18 U.S.C. §3013  
) 18 U.S.C. §3571

INDICTMENT

THE GRAND JURY CHARGES:

COUNT I

That from on or about the 3rd day of November, 1988, and continuing through on or about the 22nd day of November, 1988, in the Eastern District of Arkansas, defendants DAVID L. HALE, CHARLES MATTHEWS, AND EUGENE FITZHUGH, did conspire and agree together to commit offenses against the United States, that is in violation of 18 U.S.C. 1006, by agreeing to cause false entries in the books, reports, and statements of Capital-Management Services, Inc., a Small Business Investment Company, licensed by the Small Business Administration, in violation of 18 U.S.C. 645, by agreeing to cause false statements to be made to the Small Business Administration to influence its actions and to obtain money thereby, in violation of 18 U.S.C. 1001, by agreeing to conceal and cover up material facts in a matter within the jurisdiction of the Small Business Administration, an agency of the United States, and further agreed to defraud the United States.

It was a part of the conspiracy that defendant CHARLES MATTHEWS, then an employee of an investment firm would transfer

from an account held by said firm for a Louisiana Family, \$800,000.00 into another account at the firm in the name of Fitzhugh Foundation (defendant Eugene C. Fitzhugh), and the money would then be transferred in the sum of \$400,000.00 to Diversified Capital Investments (defendant David L. Hale), and would then be transferred to a savings account of Capital-Management Services, Inc., a Small Business Investment Company, principally owned by defendant DAVID L. HALE, and which company also would receive the other \$400,000.00 by way of cashier's checks purportedly in payment on certain problem loans made by the company to other entities in the past. DAVID L. HALE would then represent to Small Business Administration that he had invested \$400,000.00 into the company by virtue of a stock purchase with money his wife had obtained from the sale of real estate, as evidenced by \$400,000.00 now in the Capital-Management savings account, and the company would apply under the Small Business Investment Company Act, for \$900,000.00 from the Small Business Administration for the purpose of making loans to small businesses, the application showing, among other things, commitments to make a loan to "Corporations" in the sum of \$600,000.00 located at Mr. Matthews' home and office addresses.

It was also a part of the conspiracy that with the assistance of defendant, EUGENE C. FITZHUGH, defendant, DAVID L. HALE would then create and fund three transactions purportedly to Lane, Inc., River Valley Hydraulic and Supply, Inc., and McIntire Numismatic Auction, Inc., totaling \$800,000.00, with their entities, to in turn remit the money back to the account from which defendant



CHARLES MATTHEWS had originally transferred the \$800,000.00.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants in the Eastern District of Arkansas performed the following Overt Acts:

1.

2.

All in violation of 18 U.S.C. §371.

COUNT II

That on or about the 4th day of November, 1988, in the Eastern District of Arkansas, defendant, David L. Hale, willfully did make a statement knowing it to be false, for the purpose of influencing the actions of the Small Business Administration, in he represented his wife as the source of new capital he invested in Capital-Management Systems, Inc., his wife purportedly received the money from an August 14, 1988, sale of a small commercial center, wherein he knew that the source of funds was an account at a brokerage firm and the new "capital" was shown, all in violation of 18 U.S.C. §645.

COUNT III

That from on or about the 1st day of March, 1989, and continuing through on or about the 3rd day of March, 1989, in the Eastern District of Arkansas, defendants DAVID L. HALE, and CHARLES MATTHEWS, did conspire and agree together to commit offenses against the United States, that is in violation of 18 U.S.C. 1006, by agreeing to cause false entries in the books, reports, and

statements of Capital-Management Services, Inc., a Small Business Investment Company, licensed by the Small Business Administration, in violation of 18 U.S.C. 645, by agreeing to cause false statements to be made to the Small Business Administration to influence its actions and to obtain money thereby, in violation of 18 U.S.C. 1001, by agreeing to conceal and cover up material facts in a matter within the jurisdiction of the Small Business Administration, an agency of the United States, and further agreed to defraud the United States.

It was a part of the conspiracy that defendant CHARLES MATTHEWS, then an employee of an investment firm would transfer from an account held by said firm for a Louisiana family, \$275,000.00 into a bank account of Retail Factors, Inc., and this would be transferred to Capital-Management Services, Inc., a Small Business Investment Company, principally owned by defendant DAVID L. HALE, by way of cashier's checks purportedly in payment on certain loans made by the company to other entities in the past. DAVID L. HALE would then represent to Small Business Administration that in connection with the company's application under the Small Business Investment Company Act, for \$900,000.00 funding, that certain loans questioned by the Small Business Administration had been paid off or were current.

It was also a part of the conspiracy that defendant, DAVID L. HALE, would then create and fund a transaction with Liberty Mortgage Company in the sum of \$275,000.00 with it to in turn transfer the money back to the account which defendant CHARLES

MATTHEWS had originally transferred the \$275,000.00.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants in the Eastern District of Arkansas performed the following Overt Acts:

- 1.
- 2.

All in violation of 18 U.S.C. §371.

COUNT IV

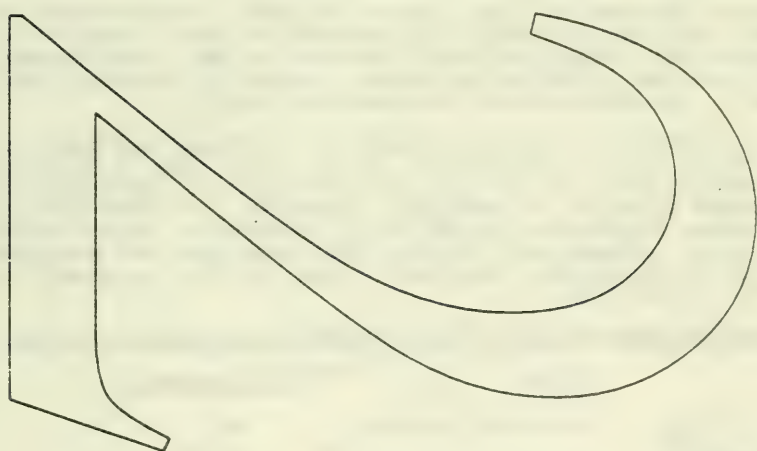
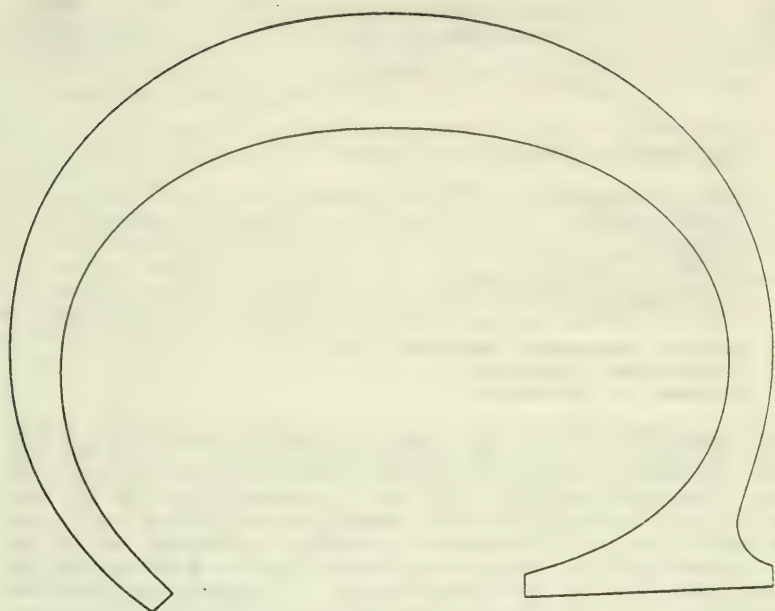
That on or about the 29th day of May, 1988, in the Eastern District of Arkansas, defendant, DAVID B. BALE, willfully did make a statement knowing it to be false for the purpose of influencing the actions of the Small Business Administration in a Form 1031, that is that the financing as to Liberty Mortgage, Inc., was for working capital. All in violation of 15 U.S.C. §645.

A TRUE BILL.

\_\_\_\_\_  
FOREMAN

Prepared by:

\_\_\_\_\_  
FLETCHER JACKSON  
Assistant U.S. Attorney  
P.O. Box 1229  
Little Rock, AR 72203



P





**U.S. SMALL BUSINESS ADMINISTRATION**  
WASHINGTON, D.C. 20416



DATE: September 21, 1993

TO: Erskine Bowles,  
Administrator

FROM: Wayne S. Foren,  
Associate Administrator  
for Investment

RE: Capital Management Services, Inc.  
Little Rock, Arkansas  
License No. 06/06-5207

SBA was appointed receiver of Capital Management Services, Inc. (CMS) on September 15, 1993, by Court Order in Civil Action No. LR-C-93-646 in the U.S. District Court for the Eastern District of Arkansas, Western Division. SBA was appointed Receiver for the purpose of liquidating all of CMS' assets and satisfying the claims of CMS' creditors in the order of priority as determined by the Court. Judge David L. Hale, the president and a director of the licensee, consented to the receivership. Judgment was rendered against CMS in favor of the SBA for the sum of \$3,816,154.21 plus accrued interest, dividends and post judgment interest.

On Monday, September 20, 1993, Mark K. Stephens, Associate General Counsel, and Cecilia Seay, the Receiver's agent retained to liquidate CMS, closed the bank accounts of CMS (approximately \$3,200 remained in the bank accounts), seized the records of CMS, and are in the process of martialling the assets.

The U.S. Attorney's office informed Mr. Stephens that they are scheduled to make a presentation to the Grand Jury on Tuesday, September 21, 1993, at 3:00 p.m. and are expecting indictments to be returned on Tuesday or Wednesday, September 21 or September 22, 1993 against Judge Hale and two other individuals. Judge Hale's attorney, Mr. Coleman, has indicated that Judge Hale may step down from his position as a municipal judge if the indictment is returned against him.

Ownership and Management of the Licensee (as represented to SBA):

<u>NAME</u>	<u>TITLE</u>	<u>% OF OWNERSHIP</u>
David L. Hale	President/Director	82
Linda S. Hale*		9
Hazel Dennis		9
James Hall	Secretary/Director	
George Ivory	Vice President	
* David Hale's wife.		

SBA provided financing to CMS through the purchase/guarantee of three subordinated debentures totalling \$2,000,000 (\$500,000 dated November 30, 1983, \$1,000,000 dated September 8, 1986, and \$500,000 dated March 17, 1989) and the purchase of \$1,400,000 in preferred stock (\$500,000 in 1980, \$500,000 in 1986, and \$400,000 in 1989).

Failure to inform SBA of Capital Impairment is the violation stated in the Complaint. CMS is approximately 171% capittally impaired.

Per the last Financial Statement (SBA Form 468) submitted to the SBA dated September 30, 1992, CMS maintained a cash balance of \$51,819, and owned 15 notes and 7 equities with a total principal balance outstanding and valuation for the same sum of \$2,214,402. At September 20, 1993, approximately \$3,200 cash remained in the CMS bank accounts. The Office of Liquidation believes that many of the listed portfolio assets are questionable or do not exist.

cc: John T. Spotila  
Martin D. Teckler

1:30 8/10/93 Fletcher Jackson, (LMSA) Wretchen Hall (RM) Mrs; Room: ARM;  
Helen Minor; Re: Capital Management

Basky; Ranquist: First Dominion - Austin, Texas.

D.O. National Building Supply filed - Chap 11 Spring 1993  
Reno, Neo.

Barbault, CA - Thompson Medical  
Controller's Office - Ms. Hodges

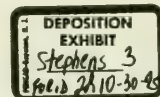
Calvin Wasson: Impersonated two buyers Arkansas  
Commercial Realty;  
Previously was "LAME"

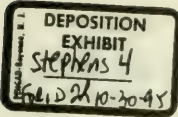
Halle - small claims Ct. judge - Drucker - etc.

① McIntire has a coin shop in Jacksonville  
Fitzhugh took McIntire to Halle -  
McIntire got a check and gave it back to  
Fitzhugh.

② LAME -  
Associate of Fitzhugh formed Corporation

→ Townsend's sued Mathews, Halle, Fitzhugh, Capital Management  
Settled





U.S. Department of Justice

Federal Bureau of Investigation



In Reply, Please Refer to  
File No.

10825 Financial Centre Pkwy., #200  
Little Rock, Arkansas 72211  
October 4, 1993

Mr. Mark Stephens  
U. S. Small Business Administration  
409 3rd Street, Southwest  
Washington, D. C. 20416

Dear Mr. Stephens:

This letter is in reference to a facsimile transmission dated September 30, 1993, and telephone conversation with Financial Analyst (FA) Gretchen Hall on September 30, 1993.

Enclosed please find copies of inventory sheets for items held by Randy Coleman of Skokos and Coleman, for his client, David Hale. The unsigned copy is an inventory sheet presented to FA Hall by Susan Clausen of Skokos and Clausen. The signed copy is an inventory sheet showing corrections and additions to the original.

The signed and executed inventory listing are the items taken into custody by FA Hall on September 30, 1993.

After the seizure of certain files from the offices of Capital Management Services, Inc. (CMS), all files seized had been copied over the two succeeding days. The Bureau provided Ms. Cecilia Seay, receiver of CMS for the Small Business Administration (SBA), all duplicated files except the following files: Incredible Closeout Corporation; International Trading Company; Cole Construction and Masonry; Niven Real Estate, Inc.; Property Care, Inc.; and Townsend Financial Services. Initially, these files were not given to Ms. Seay because the files were not included in the inventory of items taken from CMS by SBA; however, later those files were copied and sent to Ms. Seay.

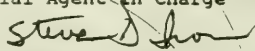
The Townsend Financial Services file was received by FA Hall from Skokos and Coleman and is included on the additions to the Skokos and Coleman inventory. This file is the same identical file as the one seized.

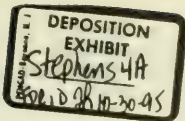


Thank you for your continued cooperation in this matter. If you have any questions concerning the information presented to you above, please do not hesitate to call.

Sincerely,

Robert M. Satkowski  
Special Agent in Charge

  
BY: Steven D. Irons  
Supervisory Special Agent



U.S. Department of Justice

Federal Bureau of Investigation



In Reply, Please Refer to  
File No.

10825 Financial Centre Pkwy., #200  
Little Rock, Arkansas 72211  
October 4, 1993

Mr. Mark Stephens  
U. S. Small Business Administration  
409 3rd Street, Southwest  
Washington, D. C. 20416

Dear Mr. Stephens:

This letter is in reference to a facsimile transmission dated September 30, 1993, and telephone conversation with Financial Analyst (FA) Gretchen Hall on September 30, 1993. /

Enclosed please find copies of inventory sheets for items held by Randy Coleman of Skokos and Coleman, for his client, David Hale. The unsigned copy is an inventory sheet presented to FA Hall by Susan Clausen of Skokos and Clausen. The signed copy is an inventory sheet showing corrections and additions to the original.

The signed and executed inventory listing are the items taken into custody by FA Hall on September 30, 1993.

After the seizure of certain files from the offices of Capital Management Services, Inc. (CMS), all files seized had been copied over the two succeeding days. The Bureau provided Ms. Cecilia Seay, receiver of CMS for the Small Business Administration (SBA), all duplicated files except the following files: Incredible Closeout Corporation; International Trading Company; Cele Construction and Masonry; Niven Real Estate, Inc.; Property Care, Inc.; and Townsend Financial Services. Initially, these files were not given to Ms. Seay because the files were not included in the inventory of items taken from CMS by SBA; however, later those files were copied and sent to Ms. Seay.

The Townsend Financial Services file was received by FA Hall from Skokos and Coleman and is included on the additions to the Skokos and Coleman inventory. This file is the same identical file as the one seized.

Thank you for your continued cooperation in this matter. If you have any questions concerning the information presented to you above, please do not hesitate to call.

Sincerely,

Robert M. Satkowski  
Special Agent in Charge

*Steven D. Irons*  
BY: Steven D. Irons  
Supervisory Special Agent

Received from Randy Coleman the following:

1. Bank statements and cancelled checks for the following periods:
  - (a) fiscal year ending June 30, 1988 inclusive for all months;
  - (b) fiscal year ending June 30, 1989 inclusive for all months;
  - (c) fiscal year ending January 30, 1990 inclusive for all months save and except for the month of September, 1989;
  - (d) fiscal year ending June 30, 1991 for the months of July, August, September, October, November and December, 1990; and
  - (e) savings account statements for April, June, September, December of 1989, and March, June and September of 1990.
2. Checks inventoried on the attached two (2) pages.
3. Files:
 

Retail Liquidators, Inc.  
 Hall Sales Company, Inc.  
 Southern Food, Inc.  
 Richard M. Grasby, P.A.  
 Southloop Construction Corporation  
 Castle Sewer & Water Corp  
 County Cable, Inc.  
 Stephen A. Smith d/b/a The Communications Company  
 SFA Financial Services  
 Multi Marketing Systems  
 Asset Sale  
 Contribution Agreement  
 Minority Management Consultants, Inc.  
 Capital Management Services, Inc.  
 D & M Consulting  
 Old County Deli  
 Weaver-Bailey Contractors  
 Yell Forestry Products, Inc.  
 SBA Form 468 (1990)  
 SBA Form 438 (1991)  
 SBA Form 468 (1992)  
 SBA audit files (three (3) files)
4. Original Mona Mizell letter of July 30, 1993 to David Hale.

Received by: \_\_\_\_\_ (Signature)  
 \_\_\_\_\_ (Print Name)  
 Date: \_\_\_\_\_



## CHECK NO.

## DATE

## PAYEE

## AMOUNT

## ENDORSEMENT

0151	10/18/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 112.50	For deposit only
0152	10/18/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 139.25	For deposit only
0155	11/16/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 573.00	For deposit only
0166	11/16/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 297.10	For deposit only
0184	12/26/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 170.00	For deposit only
0185	12/26/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 180.00	For deposit only
0186	12/26/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 283.45	For deposit only
0187	12/26/84	Mitchell, Williams, Selig, Jackson & Tucker	\$ 152.10	For deposit only
0210	2/25/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 448.65	For deposit only
0219	3/14/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 363.18	For deposit only
20	3/14/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 363.50	For deposit only
0221	3/14/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 2,088.05	For deposit only
0241	4/12/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 1,572.50	For deposit only
0242	4/12/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 65.55	For deposit only
0243	4/12/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 238.30	For deposit only
0250	4/30/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 983.47	For deposit only
0263	5/13/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 1,788.25	For deposit only
0264	5/13/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 95.05	For deposit only
0283	6/18/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 737.45	For deposit only
0299	7/15/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 238.00	For deposit only
0318	9/03/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 26.70	For deposit only
0319	9/03/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 2.60	For deposit only
0320	9/03/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 35.00	For deposit only
0331	9/17/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 175.00	For deposit only
0349	10/21/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 185.45	For deposit only
0350	10/21/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 14.00	For deposit only
351	10/21/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 35.00	For deposit only
0376	12/18/85	Mitchell, Williams, Selig, Jackson & Tucker	\$ 18.00	For deposit only
0401	1/24/86	Mitchell, Williams, Selig, Jackson & Tucker	\$ 141.50	For deposit only
0432	3/07/86	Mitchell, Williams, Selig, Jackson & Tucker	\$ 64.65	For deposit only
0433	3/07/86	Mitchell, Williams, Selig, Jackson & Tucker	\$ 49.00	For deposit only
0442	3/17/86	Mitchell, Williams, Selig, Jackson & Tucker	\$ 49.00	For deposit only
0498	5/14/86	Mitchell, Law Firm	\$ 739.34	For deposit only
0556	8/12/86	Mitchell, Law Firm	\$ 305.00	For deposit only
0582	9/30/86	Mitchell, Law Firm	\$ 25.50	For deposit only
0600	10/15/86	Mitchell, Law Firm	\$ 27.00	For deposit only
0707	5/18/87	Mitchell, Williams, Selig & Tucker	\$ 157.50	For deposit only
0708	5/18/87	Mitchell, Williams, Selig & Tucker	\$ 412.50	For deposit only
0794	11/20/87	Mitchell, Williams, Selig & Tucker	\$ 71.10	For deposit only
0805	12/24/87	Mitchell, Williams, Selig & Tucker	\$ 233.90	For deposit only
0849	3/09/88	Mitchell, Williams, Selig & Tucker	\$ 7,898.75	For deposit only
0850	3/09/88	Mitchell, Williams, Selig & Tucker	\$ 2,101.25	For deposit only
			\$ 54.75	For deposit only

Date:

Received by:

(Signature)

(Print Name)

CHECK NO.	DATE	PAYEE	AMOUNT	ENDORSEMENT
1591	9/16/83	County Cable, Inc.	\$ 50,000.00	By Billy Cost, President
1614	11/30/83	County Cable, Inc.	\$ 50,000.00	B. S. Cost
1672	3/27/84	County Cable, Inc., Billy S. Cost & Rebecca J. Cost, his wife	\$ 50,000.00	By Billy Cost, President, B. S. Cost, Rebecca J. Cost
0288	6/28/85	Cablevision Management, Inc.	\$110,000.00	For deposit only
0295	7/12/85	Cablevision Management, Inc.	\$ 15,000.00	For deposit only
0390	1/10/86	Larry E. Kuca	\$143,000.00	Larry E. Kuca
0415	2/21/86	d/b/a Campobello Realty Co.	\$ 65,000.00	Stephen A. Smith
.16	2/28/86	Stephen A. Smith	\$150,000.00	By Jim Guy Tucker
0458	4/03/86	Castle Sewer and Water Corporation	\$300,000.00	(not endorsed)
0537	7/22/86	Susan H. McDougal	\$ 6,000.00	Larry E. Kuca
0542	7/27/86	d/b/a Master Marketing	\$ 10,000.00	Richard M. Grasby, P.A.
		Larry E. Kuca		William Watt
		d/b/a Campobello Realty		By Betty Tucker, President
		Richard M. Grasby, P.A.		Pay to order of Castle Sewer
0578	9/22/86	Cablevision Management, Inc.	\$150,000.00	Southloop Construction Corp
0775	10/05/87	Southloop Construction Corp	\$ 70,000.00	Pay to order of Castle Sewer
0776	10/08/87	Southloop Construction Corp	\$ 20,000.00	Pay to order of Castle Sewer
0817	1/15/88	Southloop Construction Corp		Southloop Construction Corp
				by Jim Guy Tucker, Secretary
				For deposit only

Received by: \_\_\_\_\_ (Signature)

\_\_\_\_\_  
(Print Name)

Date: \_\_\_\_\_

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## DATE

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0600	10/15/86	Mitchell, Williams, Selig, Jackson & Tucker	\$ 27.00	For deposit only
0707	5/18/87	Mitchell, Williams, Selig, Jackson & Tucker	\$ 157.50	For deposit only
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0709	5/18/87	Mitchell, Williams, Selig, Jackson & Tucker	\$ 73.10	For deposit only
0794	11/20/87	Mitchell, Williams, Selig, Jackson & Tucker	\$ 233.90	For deposit only
0806	12/24/87	Mitchell, Williams, Selig, Jackson & Tucker	\$ 7,898.75	For deposit only
0849	3/09/88	Mitchell, Williams, Selig, Jackson & Tucker	\$ 2,101.25	For deposit only
0850	1/09/88	Mitchell, Williams, Selig, Jackson & Tucker	\$ 54.75	For deposit only

(Signature)

(Print Name)

Received by: *Arthur Hall*  
*Arthur Hall*  
 Date: 10/11/93

Received From: *Kevin Hansen*

CHECK NO.	DATE	PAYEE	AMOUNT	ENDORSEMENT
✓ 1591	9/16/81	County Cable, Inc.	\$ 50,000.00	By Billy Cost, President
✓ 1614	11/30/83	County Cable, Inc.	\$ 50,000.00	B. S. Cost
✓ 1672	3/27/84	/ & Rebecca J. Cost, his wife	\$ 90,900.00	By Billy Cost, President,
✓ 0288	6/28/85	Cablevision Management, Inc.	\$110,000.00	B. S. Cost, Rebecca J. Cost
✓ 0295	7/12/85	Cablevision Management, Inc.	\$ 15,000.00	For deposit only
✓ 0390	1/10/86	Larry E. Kuca	\$143,000.00	For deposit only
✓ 0415	2/21/86	d/b/a Campobello Realty Co.		Larry E. Kuca
✓ 0416	2/28/86	Stephen A. Smith	\$ 65,000.00	Stephen A. Smith
✓ 0458	4/03/86	Castle Sewer and Water Corporation	\$150,000.00	By Jim Guy Tucker
✓ 0537	7/22/86	Susan H. McDougal	\$300,000.00	(not endorsed)
✓ 0542	7/27/86	d/b/a Master Marketing		
✓ 0578	9/22/86	Larry E. Kuca	\$ 6,000.00	Larry E. Kuca
✓ 0775	10/05/87	d/b/a Campobello Realty	\$ 10,000.00	Richard M. Grasby, P.A.
✓ 0776	10/08/87	Richard M. Grasby, P.A.	\$150,000.00	William Watt
✓ 0817	1/15/88	Cablevision Management, Inc.	\$ 10,000.00	By Betty Tucker, President
		Southloop Construction Corp	\$ 70,000.00	Pay to order of Castle Sewer
		Southloop Construction Corp	\$ 20,000.00	Southloop Construction Corp
		Southloop Construction Corp		by Jim Guy Tucker, Secretary
		Southloop Construction Corp		Pay to order of Castle Sewer
		Southloop Construction Corp		Southloop Construction Corp
		Southloop Construction Corp		by Jim Guy Tucker, Secretary
		Southloop Construction Corp		For deposit only

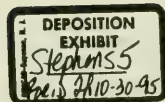
Received by: Andrew Hall (Signature)

Geethen Hall (Print Name)

Date: 10/11/83

RECEIVED FROM: Andrew Hall





Hale. 10/14/93

① Incredible Closeout

Hale trades Little Rock Collier → Yes Acquisition  
Takes back stock - Is Incredible real? Yes

② Med a Corp

Hale trades McIntire + Southern Foods for \$1.6M  
IFR Bays never formed Med a Corp in 1987 Pass  
George Villaral Personal - But no true into Med a Corp  
Is Med a Corp real?

③ Midwest Consults

Hale trades: 2 Paul Sales: Wescor, Shell + Old Country  
Then Midwest to CADC as part of swap  
0 - NBS.

Did NBS get reversed?

④ Cole Masonry

Hale trades Master Marketing + Ins. Economists  
\$400,000 loan to Cole  
Swapped to CADC for NBS

⑤ If NBS reversed then set these 2 back

⑥ Property Care

Hale sold to International Trading + Minority Management  
Properties then sold to CADC.

→ ~~The first transaction~~ was NBS traded to CADC?

⑦ Arkansas Commercial Realty

Hale traded Townsend Financial for \$27,000  
Looks good - Ark.

⑧ Art matrices

Hale swapped Multi, Lorenz, Yell  
for 2 K's

meeting w/ Hale 11/18/93

Castle:

Misstated purpose

Insider Transaction - Inadequate consideration

Tucker put himself in a second

Mallison owned the system and property

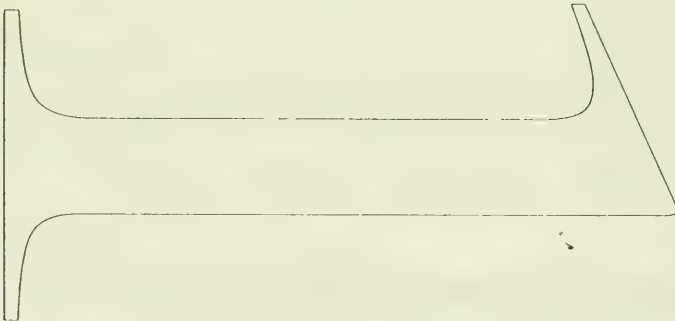
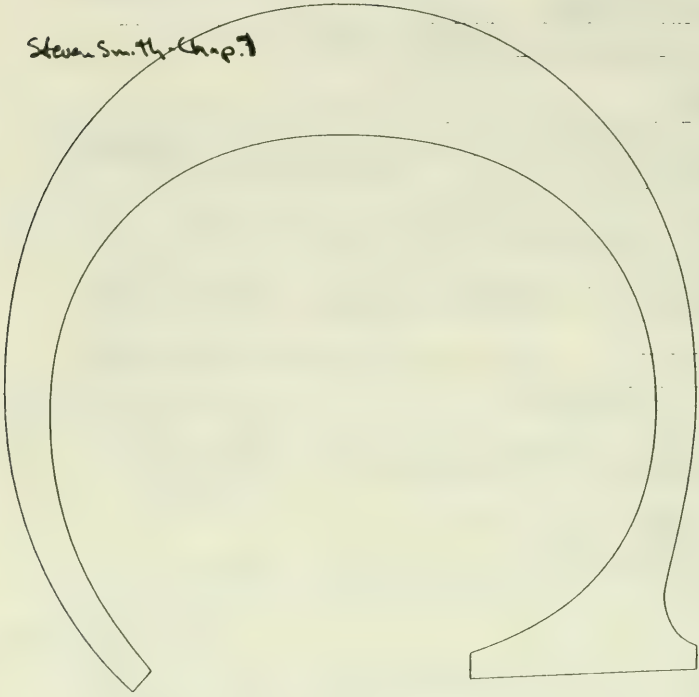
Mallison guaranteed the bookkeeping to pay Smith  
Management

Jim by Tucker did the filings.

Equitable subordination -  
October, 1987

Coppabella Realty / Larry Kucera - 604-261-1111  
Medison

Steven Smith Chap. 7



1-14-13

Hale: Areas he will not talk about!

①

Steve Smith: - Close friend of Clinton -

- Tied into McDougal & Tucker

- Debt was discharged

Question the integrity of the Commerce  
+ Ins Company.

Take out to use money for

- Smith, Tucker, McDougal used the money  
Follow the money.

{ } → look at Financial statements of  
Tucker 1985-86 - See if this took him out.

- Check to see if he had bank account -

Nominee borrower -

Pierce the corp. veil.

②

Check on Chemat Co

old written off

\$8,000 lost

statute probably run

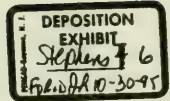
Larry Shipley

→ Coleman will work w/ SOA

③

Dean Paul - Problems w/ Madison -



ISSUES/Actions

10/29/93

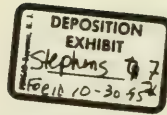
MKS

② Are they following master & trail?  
Follow & trail!

- ① Chronology
- ✓ ② Outline of future Actions
- ③ Call Fletcher
- ④ Get Fletcher copy of Loan Agreement w/ Tucker
- ⑤ Work w/ Tom Re. RTC
  - ⑥ Get Appraisal, Engineering Report; Accident;
- ✓ Casualty ⑥ Get list of Investments + Principals of Foglin
- ⑦ Get Abstract from Ron Hoge
- ⑧ Cecilia: Follow Steve Smith transaction:
  - ⑨ What is Chemat co?
  - ⑩ Write Demand L. Rudolph - ⑪ Get copies sent; (prescriptions) + Patient communication
- ⑨ Dean Phil - letter to Michael Fitching
- ✓ ⑩ Send letter to Alan Perkins requesting documents
- ✓ ⑪ Call Carrington Young / friend of Perkins
- ✓ ⑫ Get documents reversing NBS transaction
- ✓ ⑬ Did Madison guarantee the fees on the hookups
- ⑭ ~~Gene R. Rudolph~~
- ⑮ What is Larry Kuch deal?

end in  
 Fletcher's  
 financial  
 statement

⑧ Try as  
 much as  
 possible



10/25/95

11:40 Randy Coleman 501-374-1107

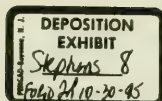
- Mike Johnson - Head of criminal division
- Coleman met with Johnson and Paula Casey
- They threw a deal that was rejected by Coleman.
- He is trying to get AUSA to get it moving

Coleman is offering Tom Anderson

- Paula Casey came from Bumpers D.L. Staff
- Her husband was a longtime Clinton / Tucker
- Mike Johnson career employee.

on Public Affairs  
community  
appointer

R. D. Randolph's worked at Madison



10/26/93 4:00

Fletcher Jackson

Wells Street 173 to tie in - Ford

- Started getting the checks on Master Market.
- looks like to pay the debt.

Grady

Hale had Grady sign on as a straw man

~~for the business~~

The money was diverted to pay closing costs for Tucker and a campaign contribution

Oct 95 South Loop -

- Tucker left w/ \$135,000 in cash to use for shopping center -
- Used the money to pay on another loan -
- Grady told ~~him~~ money to

Tucker was attorney for Madison -

Tucker, Smith, McDougal all in Madison →

TRIA for Hale is February 28, 1994.

Cecilia custodian of records

Fletcher will indict in November. 2,

\$300,000 for sunbelt - Watt

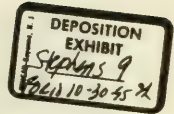
\$200,000 for Paul Sales

\$110,000 Ark Comm. Realty

\$125,000 International Trading

Look at Larry KUCA -

Re: C.I.S.

JF (Fletcher) 1-13-85 10:15

- ① RTC only has copies of checks through 1985. Fletcher hopes to get ~~more~~ checks out in 2 or 3 weeks.
- ② RTC is now looking at new period.
- ③ Nothing in Masters showing \$300,000 went to Whitewater.
- ④ Seth Ward:
- ⑤ Money went between Larry Kenner + McDougal look Kampella.

Fletcher is doing Indictment ←Like  
like deposition

- ① ~~Barrett~~ Barrett: John Rodgers (found documents) → Rodgers into check to Darbelle Development → then to National Savings Corp → Amish to Lug Funeral Home.

- ② Pearl Paul -

→

- ③ 1989-D. Barbara \$10,000 Ark. Comm. Realty -  
thinks went to Ins. Co.  
This predates Earl Wasson.  
- John Nivers - original person  
- Kelly Johnson  
- Karen Ross  
- Dora Williams / + Manus Court  
- then Earl Wasson.

- ④ International Trading \$100,000

- ⑤ Werner Bailey \$100,000 - Pd. Bank.



10/13/83  
Fletcher B. 2

Omni: Dean Paul Co.

↓  
 To Hale's Sister (Hazel Dennis)

↓  
 Diversified Capital. (bank)

1980

1910 N. Grant - Old Pulaski Building

↓

> Congresswoman Bill Alexander / M. Ward

> Paul Doherty (<sup>American</sup> ~~Manufacturing~~) Paul + Hale

≤ Mrs. Paul Through Omni holds \$250,000 mortgage.

Mrs. Paul had a mortgage on her ranch. -

↓ Hazel Dennis

Omni to Diversified Capital

Hale is moving ~~nothing~~ back to Hazel Dennis.

Greenfield Properties: May own Condo in Hot Springs for Hale

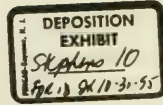
Paul Doherty - Multi Marketing

↓

↓

American Manufacturing

Seth Ward - Father in law of Webb Habbell



TLFletched 11/1/93/ 1145

March 1986 - Eden

1985 - loan to Hale

1987 - loan to Dardalle is 3

Karen Carmichael 1-800-765-3342 ext 9438

Direct 913-344-8438

No evidence of any Campaign Contributions

No loans ~~to~~<sup>from</sup> Foster

11/8/95 1:30

B.S. C.S.

supervisor CA II  
FOLIO  
8/10-30-95

Dav. Q. Reason (watch Heli); Helminder / center / nu

1. Masters Marketing -Make a formal Referral

② Checks they have they got +

③ SBA will get the checks③ John Rodgers / Fillmore St. I Sunbelt ✓Rodgers. I J L + direction of F. Watt④ Art. Low④ Carl Wasson④ Artinette Co / Harry Howard④ Property Care④ Incredible Closet

⑥ Richard Grady by P.T.

⑦. Deal Paul Paul-Sol

⑧ Cole Masonry

⑨

Not informed:① Tark so water bonds / Paul / Rutherford Tark / R.D.R. H②. Cross section, Receipts / Disbursements③. John Hally

Stephens Ex 12

FOLIO

Q 10-3045

Dean Paul

11/1/92 1:30

from

Paul: Mike Fitzhugh;

Mrs. Cecily McMiner

Yell Forestry was formed to purchase  
Plainview Lumber Co. owned by Hake's cousin.

Southern Wood products was being investigated  
 by Hake.

Dean Paul ended up with the stock.

Mark Roberts lawyer who said David Hake  
 agreed to pick up the notes. Roberts  
 will so state.

"Rooster can pull a freight train"

→ Omni Resources Inc.

Metropolitan Lender  
 Dan & Paul: Paul Dineary  
 Dean Paul: Fred Weaver

12/11

1979

Building was purchased in 1979 by a lot  
 individuals including Hake

Metropolitan Resources purchased from Palaski Bank  
 Mrs. Paul and Shirley Cooper were officers

May 1982

cash  
 debt a mortgage to  
 \$25,000 bank  
 Paul  
 Paul  
 Paul

Metropolitan Lender to Omni/Same day Omni to Capital Bank  
 Capital Bank deals to David Hake (grantor)

Aug 1982 Capital gave to Omni \$545,000  
 mortgage

Dec. 1985 Metropolitan gives Mortgage to Palaski for \$57,000

April 1986 CMS loans Paul \$100,000 (legitimate  
 loan)

Sept. 1986 Omni assigns the Mortgage to  
 Hazel Dennis and Hake agrees  
 to pay the \$300,000.

Paul put the \$20,000 in the notes

Dec. 1986 Hazel Dennis assigns the mortgage  
 to Diversified. (Hake's) Hake then  
 gives the Note, mortgage and  
 deed to Diversified



Stephens Exp 13

FOL 13  
OR 10-30-55ResEMS

TF (Don McKay) 11/15/93 12:00

Dear Paul : Don will talk to Fitchugh at some point.  
Nothing imminent. Don will talk to Fitchugh. They  
are still looking at criminal

- ① Send a copy to Don McKay, Kenne & David O.  
Reign →

McKay will call Mks Monday 11/22/93

501-228-8530

# CMB - Meeting DOJ

11/15/93 - 2:10 Financial Fraud  
 → ~~Don't~~ Don't FBI; Jane Erickson FBI; Alan Lavey; John Attubue  
~~Steve~~

Got Documents back

Privilege / AR documents should be sent + got  
 all copies.

Did they ask about Masters in Audit papers  
 1976

check w/ Chris



## U.S. SMALL BUSINESS ADMINISTRATION

WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

## NOTICE

The information contained herein has been determined to be confidential in nature and therefore not releasable to unauthorized parties. Disclosure of this information may violate Federal law (e.g., Privacy Act of 1974, the Right to Financial Privacy Act of 1978, and 18 U.S.C. § 1905). Utmost discretion should be exercised.

November 15, 1993

Honorable John J. LaFalce  
Chairman, Committee on Small Business  
Congress of the United States  
House of Representatives  
Washington, DC 20515-6315

Re: Capital Management Services, Inc.

Dear Chairman LaFalce:

I am pleased to provide the information you requested on November 4, 1993, regarding Capital Management Services, Inc. ("Capital Management"), a Specialized Small Business Investment Company ("SSBIC") located in Little Rock, Arkansas.

As general background, Capital Management was licensed by the Small Business Administration ("SBA") in 1979, and received total financial assistance of \$3.4 million from SBA during the period from September, 1983 through March, 1989. While monitoring Capital Management in the fall of 1992 in connection with a request for additional leverage, SBA began to suspect regulatory violations by the SSBIC. SBA required Capital Management to provide further information about its portfolio of investments, and then in October, 1992 and December, 1992, SBA denied Capital Management's requests for the additional financing.

In the review process, SBA became aware of serious potential regulatory problems relating to Capital Management. Accordingly, SBA commenced an audit of the SSBIC for the 24 month period ending November 30, 1992. As a result of the audit report, issued in

Honorable John J. aFalce  
November 15, 1993 -- Page 2

March of 1993, SBA referred the case to the Office of Inspector General ("IG") for investigation. The IG, in turn, made a referral to the Federal Bureau of Investigation ("FBI") for further inquiry. SBA officials traveled to Arkansas and met with the FBI and the local Assistant United States Attorney in order to review the records of Capital Management. This joint effort uncovered additional regulatory violations by Capital Management. SBA then moved for and obtained appointment as receiver ("Receiver") for Capital Management pursuant to an Order entered by the United States District Court for the Eastern District of Arkansas, Western Division, on September 15, 1993. (United States of America v. Capital Management Services, Inc., Civil Action No. LR-C-93-646 (Eisale, J.))

The Receivership was instituted for the purpose of administering and controlling Capital Management, making inquiry into regulatory compliance, liquidating all of Capital Management's assets, satisfying the claims of creditors therefrom, and pursuing all causes of action available to Capital Management against third parties. SBA is authorized to act as a receiver of an SSBIC under Section 311 of the Small Business Investment Act of 1958, as amended ("Act"), 15 U.S.C. § 687c.

The following is a point by point response to the specific inquiries in your letter:

#### SSBIC License

Capital Management was issued an SSBIC license by SBA on March 14, 1979 under Section 301(d) of the Act, 15 U.S.C. § 681(d). SSBICs licensed under Section 301(d) of the Act are permitted to fund only those concerns owned by socially or economically disadvantaged persons.

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According to SBA's files, Capital Management is currently owned by David L. Hale 82%, Linda Sue Hale (David Hale's wife) 9% and Hazel Dennis (David Hale's sister) 9%.

#### Private Capital

As required by Section 302 of the Act, 15 U.S.C. § 682, Capital Management was initially capitalized with \$152,500 in "Private Capital", as defined in SBA's regulations ("Regulations") at 13 C.F.R. § 107.3. Please note that the minimum requirement for "Private Capital" has been amended since the time Capital



Honorable John J. CaFalcone  
November 15, 1991 -- Page 3

Management was licensed. Subsequently, Capital Management's private paid-in capital increased to \$500,500 in March of 1980, to \$1,006,310 in June of 1986 and to \$1,406,310 in December of 1988.

#### SBA Leverage

The total amount of SBA financial assistance provided to Capital Management to date is \$3.4 million. In accordance with Section 303(b) of the Act, 15 U.S.C. § 683(b), SBA provided financing to Capital Management through the purchase or guarantee of three subordinated debentures issued by Capital Management in the total principal amount of \$2,000,000. The three financings were made in November, 1983; September, 1986; and March, 1989. The SBA also provided financing to Capital Management through the purchase of a total face amount of \$1,400,000 in preferred stock issued by the Company in three separate financings in March, 1980; May, 1986; and March, 1989. The SBA is authorized to purchase preferred securities of SSBICs pursuant to Section 303(c) of the Act, 15 U.S.C. § 683(c).

#### Portfolio Financings

You have requested details regarding Capital Management's financings to individual small business concerns. These SBIC financings were not SBA approved investments, since SBA does not select or approve small businesses which SBICs choose to finance. Individual financing decisions are made by the SBICs, without prior consultation with SBA. We are not in a position at this time to give you details about individual financings by Capital Management.

As Receiver, SBA is marshalling all of Capital Management's assets and property and gathering and reviewing all of its documents, books, records and files. Since its appointment as Receiver, SBA has been operating pursuant to a liquidation directive. New financings are not being made by Capital Management. The Receiver has retained a Principal Agent, Cecilia R. Seay, who is experienced in SBIC liquidation, has served as an agent for other receiverships, has interviewed and deposed numerous individuals, and has general awareness of SBIC regulations and corporate duties in the State of Arkansas. We are in the process of retaining accountants to follow the flow of funds from Capital Management. All of Capital Management's individual financings are being reviewed, with more information being obtained daily. Once the information is available, we will review it to assess what details we can make available to you.

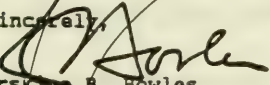
As additional background, I am attaching further information relating to Capital Management. If you like, SBA representatives

Honorable John J. Falce  
November 15, 1993 - Page 4

can meet at a mutually convenient time with Tom Powers, Jeanne Roslanowick, or any other of your designated representatives to clarify this information.

I look forward to working closely with you and the Small Business Committee as we proceed.

Sincerely,



Erskine B. Bowles  
Administrator

Attachments

EBB/s



## List of Attachments

1. Small Business Administration License Application, SBA Form 415, for Capital Management Services, Inc. dated September 18, 1978.
2. David L. Hale's Statement of Personal History and Qualification of Management, SBA Form 415A, dated July 31, 1979.
3. Schedule entitled "Changes in Private Capital and/or Operator for Capital Management Services, Inc."
4. Schedule entitled "Leverage Received from SBA By Capital Management Services, Inc."
5. Annual Report, SBA Form 468s, for Capital Management Services, Inc. for 1979 to 1992.
6. List of Financings by Capital Management Services, Inc. to Small Businesses Recorded between Calendar Years 1980 and 1993 based on Portfolio Financing Reports, SBA Form 1031s, by year of financings.
7. List of Financings by Capital Management Services, Inc. to Small Businesses (SBC) Recorded between Calendar Years 1980 and 1993 based on Portfolio financing Reports, SBA Form 1031s, by name of SBC.
8. All Portfolio Financing Reports, SBA Form 1031, submitted by Capital Management Services, Inc.
9. Audit Reports for Capital Management Services, Inc. dated 1979, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1989, 1991, 1993.
10. Memorandum Referring Capital Managements Services, Inc. to Inspector General for Investigation from Associate Administrator of Investment dated May 5, 1993.
11. Complaint for Receivership: United States of America v. Capital Management Services, Inc. Civil Action No. LR-C-93-646, filed in the U.S. District Court for the Eastern District of Arkansas Western Division, filed September 14, 1993, includes Stipulated Settlement and resulting Order dated September 15, 1993.
12. Indictment of David L. Hale, Charles Matthews, and Eugene Fitzhugh, filed in the U.S. District Court for the Eastern District of Arkansas, September 23, 1993.

Steps up 10  
for ID 4K  
10-30-95

11/17/93 10:05

Dwight Bostick

was

Jim Nixon

501-2238529

202-514-0835

Principal Gerald E. McDowell  
Alan Carter - Deputy Chief of Brand Section  
4th Floor Bond Bldg 4124 1400 N.Y. Ave.  
Wash. D.C. 20005

514-0667. FM 202-514-7021

✓ → Who should we ask for clearance  
✓ → Ethel Jones

✓ → Please advise at Grand Canyon  
Pay attention -

Do Memo and Referral

✓ -- Neil Eggleston - Wft [T. 11-21] ✓  
→ R

From [unclear]

(T) Alan - 11/17/93 1:20 (S) 2:20





CMS

(T) Alan Carver 2:35 11/17/93

Eye caught article in paperAlan <sup>will</sup> write about giving documents to the White HL-Chairman <sup>Alan</sup> wants the letter.

Ron Dick - FBI

John Attebury - Financial person at Justice -

① Alan wants a meeting to discuss how  
to SBA a victims→ Mks told about Grand Cayman connection -  
we think FBI /They have assigned a team and wants to  
keep the investigative team in Little Rock. T  
my bring the FBI person.

CMB - meeting DCJ

11/13/93 - 2:10 Financial Fraud  
 → ~~Don't~~ Don't FBI; Sara Erickson FBI; Alan Loefer; John Att

Get Documents back

Privilege/AE documents should be searched + get  
 all copies.

Did they ask about Masters in Audit pages  
 1986

check w/ Chris

TF(Alan (Azer)) 4:10 11/19/93

Neil Eggaston -

Please make a memo on the call to Neil.

T(Alan) 4:40 11/12/93

- ① Does M&S work file come within the scope of the oversight?
- ② M&S informed that Small Business Committee wants to look at documents
- ③ Check on integrity of file.

11/24/83 1150Dana Gillis; Dwight Bastwick; Jim Nixon; Don McKay; M  
MWW:

White House Contact:

Copies of Notes

We are turning over my material

- ① We are doing recce work, and cooperating  
We made a referral of CMS No. Knowledge.
- ② Individuals were recipients of financing of  
SSBSL

These matters have been referred for  
investigation and cooperation.

- ① " SBA 001
- ② Hit both sides
- ③ Don't + hit signature



THE WHITE HOUSE

WASHINGTON

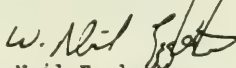
November 20, 1993

John T. Spotila, Esq.  
General Counsel  
U.S. Small Business Administration  
Washington, D.C. 20416

Dear John:

Enclosed please find the attachments to the public report from Administrator Bowles to Chairman LaFalce, House Committee on Small Business, that the Small Business Administration provided earlier this week. In view of the fact that the attachments themselves, although delivered to the House committee, were not made public, I am returning them.

Very truly yours,



W. Neil Eggleston  
Associate Counsel to the President  
(202) 456-7901



## U.S. SMALL BUSINESS ADMINISTRATION

Stephens Ex 17  
FOR ID  
JH10-30-95

## FAX TRANSMISSION SHEET

Date: 11/16/93 Time: 11:20 am

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Be Aware Fax Machines Using Thermal Paper Produce An Unstable Image Which Will Deteriorate. Copy Messages Onto Plain Paper Prior To Filing As A Record!!

## YOU MUST FILL IN ALL FIELDS

SUBJECT: Capital Management Services Total Pages + Cover = 5

Person's Full Name	Office/Firm	FAX Number	Voice Number
TO: Neil Eggleston, Esq. Associate Counsel	Off. of the White House Counsel	(202) 456-1647	(202) 456-7790
FROM: John T. Spitalia, General Counsel/SBA	SBA/OGC	(202) 205-6846	(202) 205-6713

Optional Message:

## ATTENTION RECEIVING PARTIES

Immediately call CHOCAL AT (202) 205-6713 if any FAX transmission is incomplete or if multiple copies are received.

☐ Check this box if you would like the receiving office to confirm receipt of this Fax Transmission.

When checked the receiving office should fax only this cover sheet back to the transmitting office confirming receipt.

Receiving Office, Firm or Division: \_\_\_\_\_

Received by: \_\_\_\_\_ Receipt Date: \_\_\_\_\_

Receipt Time: \_\_\_\_\_



# NEWS RELEASE

SBA Number:  
For release:

November 16, 1993

For more information,  
contact:

Mike Stamler  
(202) 205-6740

## STATEMENT ON CAPITAL MANAGEMENT SERVICES INC.

U.S. Small Business Administration (SBA) Administrator Erskine Bowles today released the attached summary of his letter to U.S. Rep. John LaFalce, chairman of the House Committee on Small Business. Chairman LaFalce had asked for background information on Capital Management Services Inc., a Specialized Small Business Investment Company located in Little Rock, Ark.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

Capital Management Services, Inc.  
Information Sheet

Capital Management Services, Inc. ("Capital Management"), was a Specialized Small Business Investment Company ("SSBIC") located in Little Rock, Arkansas.

Capital Management was licensed by the Small Business Administration ("SBA") in 1979, and received total financial assistance of \$3.4 million from SBA during the period from September, 1983 through March, 1989. While monitoring Capital Management in the fall of 1992 in connection with a request for additional leverage, SBA began to suspect regulatory violations by the SSBIC. SBA required Capital Management to provide further information about its portfolio of investments, and then in October, 1992 and December, 1992, SBA denied Capital Management's requests for the additional financing.

In the review process, SBA became aware of serious potential regulatory problems relating to Capital Management. Accordingly, SBA commenced an audit of the SSBIC for the 24 month period ending November 30, 1992. As a result of the audit report, issued in March of 1993, SBA referred the case to the Office of Inspector General ("IG") for investigation. The IG, in turn, made a referral to the Federal Bureau of Investigation ("FBI") for further inquiry. SBA officials traveled to Arkansas and met with the FBI and the local Assistant United States Attorney in order to review the records of Capital Management. This joint effort uncovered additional regulatory violations by Capital Management. SBA then moved for and obtained appointment as receiver ("Receiver") for Capital Management pursuant to an Order entered by the United States District Court for the Eastern District of Arkansas, Western Division, on September 15, 1993. (United States of America v. Capital Management Services, Inc., Civil Action No. LR-C-93-646 (Eisele, J.))

The Receivership was instituted for the purpose of administering and controlling Capital Management, making inquiry into regulatory compliance, liquidating all of Capital Management's assets, satisfying the claims of creditors therefrom, and pursuing all causes of action available to Capital Management against third parties. SBA is authorized to act as a receiver of an SSBIC under Section 311 of the Small Business Investment Act of 1958, as amended ("Act"), 15 U.S.C. § 687c.

The following is point by point specific background material:



SSBIC License

Capital Management was issued an SSBIC license by SBA on March 14, 1979 under Section 301(d) of the Act, 15 U.S.C. § 681(d). SSBICs licensed under Section 301(d) of the Act are permitted to fund only those concerns owned by socially or economically disadvantaged persons.

Management

According to SBA's files, Capital Management was operated by David L. Hale, a local Pulaski Municipal Court Judge, since 1980.

Private Capital

As required by Section 302 of the Act, 15 U.S.C. § 682, Capital Management was initially capitalized with \$152,500 in "Private Capital", as defined in SBA's regulations ("Regulations") at 13 C.F.R. § 107.3. Please note that the minimum requirement for "Private Capital" has been amended since the time Capital Management was licensed. Subsequently, Capital Management's private paid-in capital increased to \$500,500 in March of 1980, to \$1,006,310 in June of 1986 and to \$1,406,310 in December of 1988.

SBA Leverage

The total amount of SBA financial assistance provided to Capital Management to date is \$3.4 million. In accordance with Section 303(b) of the Act, 15 U.S.C. § 683(b), SBA provided financing to Capital Management through the purchase or guarantee of three subordinated debentures issued by Capital Management in the total principal amount of \$2,000,000. The three financings were made in November, 1983; September, 1986; and March, 1989. The SBA also provided financing to Capital Management through the purchase of a total face amount of \$1,400,000 in preferred stock issued by the Company in three separate financings in March, 1980; May, 1986; and March, 1989. The SBA is authorized to purchase preferred securities of SSBICs pursuant to Section 303(c) of the Act, 15 U.S.C. § 683(c).

Portfolio Financings

Capital Management made numerous financings to individual small business concerns. ~~These SSBIC financings were not SBA approved investments, since SBA does not select or approve small businesses which SSBICs choose to finance. Individual financing decisions are made by the SSBICs, without prior consultation with SBA. SBA is not in a position at this time to give details about individual financings by Capital Management.~~

As Receiver, SBA is marshalling all of Capital Management's assets and property and gathering and reviewing all of its documents, books, records and files. Since its appointment as Receiver, SBA has been operating pursuant to a liquidation directive. All of Capital Management's individual financings are being reviewed, with more information being obtained daily.



## U.S. SMALL BUSINESS ADMINISTRATION

Stephens Ex 18  
FRI  
2/10-30-93

**FAX TRANSMISSION SHEET**

Date: 11-16-93 Time: 3:20 p.m.

**WARNINGS:** PROTECTED UNDER THE PRIVACY ACT, 5 U.S.C., 552a. Unauthorized Disclosure Prohibited Under Penalty of Law. If Recipient Is Not As Identified On Cover Sheet, Make No Further Disclosure And Telephone Transmitter For Instructions On Return Of Materials.

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**YOU MUST FILL IN ALL FIELDS**

**SUBJECT:** CAPITAL MANAGEMENT **Total Pages + Cover =** 5

	Person's Full Name	Office, Firm	FAX Number	Voice Number
<b>TO:</b>	<u>NEIL EGGLESTON, ESQ.</u>	<u>OFFICE OF WHITE HOUSE COUNSEL</u>	<u>202-456-1647</u>	<u>202-456-75</u>
<b>FROM:</b>	<u>JOHN T. SPOTILA, ESQ.</u>	<u>S.B.A.</u>	<u>202-205-6446</u>	<u>202-205-6711</u>

**Optional Message:**

**ATTENTION RECEIVING PARTIES**

Immediately call CHERYL at 205-6713 if any FAX transmission is incomplete or if multiple copies are received.

☐ Check this box if you would like the receiving office to confirm receipt of this Fax Transmission.

When checked the receiving office should fax only this cover sheet back to the transmitting office confirming receipt.

Receiving Office, Firm or Division: \_\_\_\_\_

Received by: \_\_\_\_\_ Receipt Date: \_\_\_\_\_

Receipt Time: \_\_\_\_\_



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416  
(202) 205-6642



General Counsel

November 16, 1993

HAND DELIVERED

Neil Eggleston, Esquire  
Associate Counsel  
Office of the White House Counsel  
The White House  
Washington, DC 20416

Dear Neil:

Enclosed is a copy of Erskine's letter yesterday to Chairman LaFalce (with confidential attachments).

Sincerely,

A handwritten signature in dark ink, appearing to be "John T. Spotila", written over a horizontal line.

John T. Spotila

JTS/s

Attachments





U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

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November 15, 1993

Honorable John J. LaFalce  
Chairman, Committee on Small Business  
Congress of the United States  
House of Representatives  
Washington, DC 20515-6315

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Honorable John J. LaFalce  
November 15, 1993 -- Page 2

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Honorable John J. LaFalce  
November 15, 1993 -- Page 3

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Honorable John J. LaFalce  
November 15, 1993 -- Page 4

can meet at a mutually convenient time with Tom Powers, Jeanne Roslanowick, or any other of your designated representatives to clarify this information.

I look forward to working closely with you and the Small Business Committee as we proceed.

Sincerely,



Erskine B. Bowles  
Administrator

Attachments

EBB/s





**DEPOSITION OF ERSKINE BOWLES  
IN RE: S. RES. 120**

---

**TUESDAY, OCTOBER 31, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of ERSKINE BOWLES, called for examination pursuant to notice of deposition, at 2:10 p.m. in Room 138 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.  
Majority Special Counsel  
LOUIS J. GICALE, Esq.  
Majority Deputy Special Counsel  
MARK J. BRENNER, Esq.  
Majority Assistant Special Counsel  
NEAL E. KRAVITZ, Esq.  
Minority Principal Deputy Special Counsel  
GLENN F. IVEY, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

EARL J. SILBERT, Esq.  
Schwalb, Donnenfeld, Bray & Silbert  
1025 Thomas Jefferson Street, NW  
Suite 300  
Washington, DC 20007  
On behalf of the Deponent.

## CONTENTS

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WITNESS	EXAMINATION
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by Mr. Chertoff .....	3
by Mr. Gicale .....	107
Errata .....	5569

## EXHIBITS

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Erskine Bowles DEPOSITION NUMBER	IDENTIFIED
EB Exhibits 1 and 2 .....	14, 5571
EB Exhibit 3 .....	32, 5652
EB Exhibit 4 .....	35, 5654
EB Exhibit 5 .....	56, 5657
EB Exhibit 6 .....	63, 5663
EB Exhibit 7 .....	68, 5665
EB Exhibit 8 .....	69, 5666
EB Exhibit 9 .....	72, 5671
EB Exhibit 10 .....	74, 5673
EB Exhibit 11 .....	80, 5674
EB Exhibit 12 .....	84, 5676
EB Exhibit 13 .....	86, 5678
EB Exhibit 14 .....	86, 5679
EB Exhibit 15 .....	89, 5680

## 1 PROCEEDINGS

2 Whereupon,

3 ERSKINE BOWLES

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. CHERTOFF:

8 Q Mr. Bowles, just before we proceed, I would  
9 like to give you some preliminary observations about  
10 the nature of this proceeding. This deposition is  
11 being conducted pursuant to Senate Resolution 120,  
12 which establishes a special committee to conduct an  
13 investigation involving Whitewater Development  
14 Corporation and other related matters. One of those  
15 matters has to do with Capital Management Services  
16 and the SBA handling of that matter.

17 Now, you have been requested to testify  
18 before the Committee and this deposition is being  
19 taken in advance of a public hearing which I  
20 anticipate will begin next week. I would say there  
21 is a high likelihood that you will be called to  
22 testify at the hearing, although not probably in the

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4

1 first week.

2 We are going to be asking you a series of  
3 questions which you will be answering under oath. If  
4 you don't understand a question, please let me know  
5 before you answer it. Likewise, unless I  
6 specifically ask you to do so, don't speculate or  
7 guess or surmise. Give us what you know, although  
8 you can include things you have heard from other  
9 people. It doesn't have to be your direct  
10 observation.

11 The stenographer will prepare a record of  
12 questions and answers. That record will be treated  
13 as committee confidential until the hearings begin.  
14 Once the hearings begin, some or all of the  
15 deposition may become public, and I think I can  
16 predict that at some point all the depositions will  
17 become part of the public record. Before the  
18 hearings, before you testify, you may receive a  
19 letter from the Committee inviting to you come to the  
20 Senate and review the deposition for corrections. If  
21 you make corrections other than of a technical or  
22 clerical nature, that of course, can become the



1 subject for additional questions.

2 If you are called to testify at the public  
3 hearings you will be permitted to have a copy of your  
4 deposition transcript four days in advance, on the  
5 condition that you agree not to share it with anybody  
6 besides your counsel, and obviously yourself.

7 Now, Mr. Silbert, if you would, just for  
8 the record, indicate your name and affiliation.

9 MR. SILBERT: Earl J. Silbert. I am a  
10 principal in the law firm of Schwalb, Donnenfeld,  
11 Bray & Silbert, which is located 1025 Thomas  
12 Jefferson Street, Northwest here in the District of  
13 Columbia.

14 MR. CHERTOFF: Mr. Bowles, he is  
15 representing you; correct?

16 THE WITNESS: Yes.

17 BY MR. CHERTOFF:

18 Q Now, your counsel or the other counsel here  
19 may make objections to the form of the question which  
20 will be noted for the record, but you should then go  
21 ahead and answer the question after we are done with  
22 the lawyerspeak. There are two grounds on which you

---

1 could be instructed not to answer: One is on the  
2 ground of privilege; and the second is on the ground  
3 that a question is beyond the scope of the  
4 resolution. If one of those objections or  
5 instructions comes up, you should wait until we hash  
6 it out here. If it is resolved in favor of an  
7 answer, you should give the answer. If not, then you  
8 should not answer.

9 I should tell you that the final arbiter  
10 about whether something should be answered will be  
11 the chairman and if necessary we will take the matter  
12 up with him.

13 Is there anything about the questions or  
14 the observations that I have made to you that you  
15 don't understand?

16 A I don't think so.

17 Q Where are you now employed?

18 A At the White House.

19 Q You are the deputy chief of staff?

20 A That's correct.

21 Q To whom do you report?

22 A To the chief of staff.

1 Q Who is Mr. Panetta?

2 A Yes.

3  
4  
5  
6  
7 Q Before the Inauguration, in January 1993,  
8 were you employed in a government job?

9 A No, I was not.

10 Q Can you tell us just very generally what  
11 your employment history was from the time you  
12 graduated from college.

13 A When I finished graduate school I went to  
14 work for -- when I finished college I went to -- into  
15 the Coast Guard, and after the Coast Guard, I went  
16 into -- went to graduate school. After graduate  
17 school, I went to work for Morgan, Stanley for a  
18 couple of years. I left there to work in my father's  
19 campaign. After his campaign, I went to work for  
20 Interstate Securities Corporation in Charlotte for a  
21 few years, two years, I think. And then I started a  
22 firm that became Bowles, Hollowell, Conner and was

1 there for 18 years prior to coming here.

2 Q When did you start Bowles, Hollowell,  
3 Connor?

4 A I think 1975.

5 Q What kind of firm is that?

6 A It is an investment banking firm.

7 Q Do you know what an SBIC is?

8 A Yes, I do.

9 Q What is an SBIC?

10 A It is a small business investment  
11 corporation and it is basically a venture capital  
12 firm.

13 Q What distinguishes an SBIC from another  
14 type of venture capital firm?

15 A The distinguishing feature that I am  
16 familiar with is that it has -- it's regulated by the  
17 Small Business Administration, and has the ability to  
18 borrow money as a result of being a regulated company  
19 by the Small Business Administration.

20 Q It has the ability to borrow money?

21 A Below market rates.

22 Q Is that pursuant to certain government

1 programs that exist for purposes of promoting small  
2 businesses?

3 A Yes, I believe it is.

4 Q Did you ever own an SBIC, sir?

5 A I was an owner of an SBIC, yes.

6 Q When was that?

7 A I believe my initial investment was in  
8 1980.

9 Q And how long did you hold that?

10 A Until 19 -- well, I don't know. I may  
11 still have -- it is not an SBIC anymore. It turned  
12 in its license in probably early 1993.

13 Q Was that at the time that you came to  
14 Washington for purposes of accepting appointment?

15 A Yes, right before I came to Washington.

16 Q What was the name of the SBIC?

17 A Kitty Hawk Capital.

18 Q Was it a venture capital firm?

19 A Yes, it was.

20 Q Now, have you been previously deposed on  
21 any issues relating to the activities of the Small  
22 Business Administration?

---

10

1 A Yes, I have.

2 Q When?

3 A I don't remember exactly. It was when I  
4 was at the White House. It was when I was at the  
5 White House.

6 Q Without telling us what was said, was it a  
7 deposition conducted by the independent counsel?

8 A No.

9 Q Who conducted the deposition?

10 A I believe the General Accounting Office.

11 Q Have you been made aware of a document  
12 request from the Senate regarding the investigation  
13 of Whitewater Development Corporation and related  
14 matters, including Capital Management?

15 A I have been made aware of some request. I  
16 don't know if it is the specific request you are  
17 talking about.

18 Q Have you furnished any documents that you  
19 believe to be part of the request made by the Senate?

20 A Yes, to White House counsel.

21 Q To White House counsel?

22 A Yes.

1 Q Why did you furnish those to White House  
2 counsel?

3 A I thought that was what I was instructed to  
4 do.

5 Q Are these documents that were in your  
6 possession from the time that you were head of the  
7 Small Business Administration?

8 A No, I believe these were -- I am not sure  
9 what was in the documents. I had information that I  
10 gave to White House counsel that dealt with the SBA.

11 Q Is there any information you have that's  
12 relevant to Capital Management, or any involvement or  
13 knowledge you have of Capital Management that you  
14 didn't furnish to White House counsel?

15 A I do not think so.

16 Q Do you have your appointment book with you,  
17 or a portion of your appointment book?

18 A Yes, I do.

19 Q May I see it?

20 MR. SILBERT: This morning we received --  
21 we understand that Mr. Bowles's secretary received a  
22 telephone request for the appointment book. Based on

---

1 our looking at the -- and then subsequent to that, a  
2 letter was sent over addressed to Mr. Bowles for the  
3 production of certain information. As I read it,  
4 Mr. Chertoff, I do not believe that the appointment  
5 book is responsive, or included within that request,  
6 but in view of the telephone request, Mr. Bowles  
7 wanted to cooperate, we did locate and make a copy of  
8 two items a 1993 United States Government appointment  
9 book, which, as you will see, starts only on June --  
10 the week of June 28. I have the original so you  
11 can -- it was blank, pages prior to that. We didn't  
12 copy the blank pages, but I have the original so you  
13 can take a look to confirm. Then another appointment  
14 book for 1993 that Mr. Bowles had, called month at a  
15 glance. At this time -- 1993 -- at this time I would  
16 like to produce to you, for the Committee's purpose,  
17 a copy of each of those appointment books.

18 MR. IVEY: Can I ask a question -- can I  
19 see the letter that requested the production? Mike,  
20 is this the original letter that was sent out or is  
21 this --

22 MR. CHERTOFF: This is a letter that was



1 sent out in the last day, I think.

2 MR. SILBERT: This is a letter that was  
3 sent out today, this morning.

4 MR. IVEY: Did this come through Minority  
5 staff at all?

6 MR. BRENNER: Yes, Neal Kravitz on -- not  
7 Neal, I'm sorry. Lance and I discussed it last night  
8 and yesterday. And again this morning, Lance and I  
9 exchanged messages about it. It was cc'd to Senator  
10 Sarbanes and it was signed by the chairman, Senator  
11 D'Amato, and Lance was familiar with it as early as  
12 yesterday evening and he had no particular objection  
13 to it, other than he felt that there may be some  
14 overbreadth in the number -- in number 3, but he said  
15 that's a standard objection to all of our requests  
16 and other than that, he had no particular objection  
17 to it. He understood at that point yesterday evening  
18 that one of the things we would be seeking today to  
19 be produced by Mr. Bowles, is the appointment  
20 calendar.

21 MR. CHERTOFF: Can I ask that these be  
22 marked as EB-1 and EB-2.

1 MR. KRAVITZ: Before you do that, I think  
2 we will need to have copies made of those documents,  
3 so we can follow along.

4 MR. CHERTOFF: I want to get them marked  
5 because they have been produced to me. I am not  
6 going to use them. I will send them out for copies.  
7 Mark as EB-1 for identification, Month-at-a-glance,  
8 and as EB-2 for identification, U.S. government  
9 appointment book, both 1993.

10 MR. SILBERT: If you wish to verify the  
11 fact that the first 5-1/2 months are blank, I would  
12 be happy to have you --

13 MR. CHERTOFF: Thank you. I accept  
14 Mr. Silbert's representation, I don't need to do  
15 that.

16 MR. IVEY: Can we go off the record for a  
17 second.

18 (Discussion off the record.)

19 (EB Exhibits 1 and 2 identified.)

20 MR. CHERTOFF: Back on the record.

21 BY MR. CHERTOFF:

22 Q Mr. Bowles, how did you first come to

1 receive a government appointment in 1993?

2 MR. SILBERT: That might ask him to  
3 speculate, since he wasn't the appointing officer.

4 MR. CHERTOFF: To the extent he knows.

5 THE WITNESS: I was active in the --

6 Governor Clinton's Presidential campaign. I worked  
7 on the -- at the economic conference in Little Rock.

8 And I think that the people there were impressed by  
9 my work, and I expressed an interest in being

10 involved in the campaign and involved in the ad

11 managers, and I think the people here thought the job

12 I was best qualified for was to head the SBA.

13 BY MR. CHERTOFF:

14 Q How did you first get involved in the  
15 Presidential campaign?

16 A Ken Brody, who is a partner at Goldman,  
17 Sachs, first mentioned to me that -- asked me if I  
18 would have a fundraiser for then-Governor Clinton,  
19 and I guess that was in the early part of 1992.

20 MR. IVEY: Mike, there is a question about  
21 whether these are going to be copied.

22 MR. CHERTOFF: I will only need them for

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16

1 one entry, if that. I am not going to use them  
2 extensively in the deposition. I don't think they  
3 need to be copied right now. If you want to send  
4 them out to be copied, do it. I don't want to recess  
5 the deposition to do it.

6 MR. IVEY: I thought you said earlier you  
7 were going to have copies so we can work from the  
8 documents.

9 MR. CHERTOFF: As you saw, I just received  
10 them. I don't have a lot to do with the documents,  
11 there are just one or two things I want to use here  
12 for purposes of this deposition. I don't know if we  
13 need to copy it for that since I can pass it over to  
14 you and you can use it while I ask the questions.

15 If you want to have a copy made right now,  
16 I have no objection to it.

17 MR. IVEY: My preference would be if you  
18 could identify to someone on your staff what you are  
19 going to use and we could look at it together.

20 MR. CHERTOFF: Let's go off the record.  
21 (Discussion off the record.)

22 MR. CHERTOFF: Back on the record.

1 BY MR. CHERTOFF:

2 Q Had you previously known then-Governor  
3 Clinton before you were approached to hold the  
4 fundraiser?

5 A No.

6 Q When was the first time you met?

7 A I first met him when he came to North  
8 Carolina for the -- on the day of the North Carolina  
9 primary.

10 Q Which was when?

11 A I don't remember the exact date.

12 Q Approximately?

13 A This year in May -- I just don't remember.

14 Q It was in 1992?

15 A Yes.

16 Q Did you subsequently become involved in the  
17 campaign itself?

18 A I subsequently -- yes, I was.

19 Q In what capacity?

20 A Fundraising.

21 Q Did you do anything beside fundraising?

22 A I worked in economic conferences, I

---

18

1 mentioned earlier, but principally just fundraising.

2 Q Did you travel with the President during  
3 the campaign?

4 A On one -- one day I traveled with the  
5 President -- well, let me tell you what I did do, I  
6 think that's easier.

7 He came to Greensboro, North Carolina one  
8 day and I rode around with him that day. He came to  
9 Charlotte twice and that didn't involve any  
10 significant riding with him. He went on a bus trip  
11 in North Carolina and I rode on the bus trip.

12 Q Did you know Mrs. Clinton before you got  
13 involved with the campaign?

14 A I did not.

15 Q Now, when did you -- were you first  
16 approached about taking the position as SBA  
17 administrator?

18 A I don't remember.

19 Q Was it after the Inauguration?

20 A I think -- no, I think it was before the  
21 Inauguration, people mentioned it to me.

22 Q Was the position of SBA administrator the

1 first position that had been suggested to you as a  
2 possible position or were there other positions that  
3 had also been raised with you?

4 A We talked about other positions as well as  
5 SBA administrator.

6 Q Did any of those other positions involve  
7 working within the White House itself?

8 A No.

9 Q When did you actually get formally  
10 approached about whether you would accept the  
11 nomination as SBA administrator?

12 A I don't remember the exact -- I don't  
13 remember. It was in -- sometime in 1993.

14 Q Was it in the spring?

15 A I'm sorry. I don't remember when.

16 Q Do you remember when you were actually  
17 appointed?

18 A Yes, I do.

19 Q And that was like on May 5th?

20 A Yes. May 6 was my confirmation hearing, I  
21 believe, and May 7 was -- I was confirmed.

22 Q Is it fair to say that you were nominated

1 at least a month before that?

2 A It could have even been longer than that,  
3 yes.

4 Q Do you remember when you were nominated?

5 A I don't remember the date.

6 Q Do you remember the month?

7 A If I did I would tell you. I don't  
8 remember.

9 Q Were you approached about giving --  
10 withdrawn.

11 Were you given a formal offer about the  
12 position of SBA administrator before or after the  
13 Inauguration?

14 A Oh, after the Inauguration.

15 Q Did you attend the Inauguration?

16 A Yes, I did.

17 Q Who actually approached you formally about  
18 accepting the position of SBA administrator?

19 A Bruce Lindsey, I believe.

20 Q And did you accept on the spot?

21 A I think when it was formally offered, I  
22 think I did. Well, I am not sure I did. I had some



1 conditions that I wanted -- some conditions under  
2 which I wanted to accept the job and I think shortly  
3 thereafter -- I think a week or so after that, I  
4 accepted the position.

5 Q What were the conditions?

6 A The principal one that I remember is  
7 serving on the National Economic Council.

8 Q Now, between the time you were -- between  
9 the time of the Inauguration and the time you were  
10 formally offered and accepted the position --

11 A Would you say that again.

12 Q I will withdraw and ask you this question.

13 Did there come a point in time before you  
14 were actually appointed SBA administrator that you  
15 accepted a position as a consultant to SBA?

16 A No.

17 Q So when did you actually begin working at  
18 SBA?

19 A Not till I was confirmed.

20 Q That was on the 7th of May?

21 A Yes.

22 Q Did you have a transition period at SBA

---

22

1 before you were confirmed?

2 A I don't know what that means.

3 MR. SILBERT: Neither do I.

4 BY MR. CHERTOFF:

5 Q Did you have a period before you were  
6 confirmed where you were physically at SBA getting  
7 briefed on what your responsibilities would be?

8 A No, I never went to the SBA until I was  
9 actually confirmed.

10 Q Between the time that you were confirmed  
11 and the time of the Inauguration, did you hold any  
12 position with the government?

13 A Between the time --

14 Q From the time of the Inauguration until the  
15 time you were confirmed as SBA administrator, from  
16 January 20, 1993, to May 7, 1993 did you hold any  
17 position with the government?

18 A No.

19 Q Where were you working?

20 A Bowles, Hollowell, Connor in Charlotte.

21 Q When did you move to Washington?

22 A I came up here to have briefings, on and

1 off, in I think March and April, I think. And I came  
2 to -- I start -- I moved into an apartment, I  
3 believe, the weekend that I actually was confirmed, I  
4 think is when I moved over into an apartment.

5 Q Who gave you briefings in March and April?

6 A Almost all of the program heads of the  
7 major programs at the SBA.

8 Q And what kind of briefings were they?

9 A They were briefings about the various  
10 programs within each one of the departments.

11 Q During these briefings were individual  
12 cases discussed with you?

13 A If they were, I don't recall.

14 Q Did you have briefings during the period of  
15 time between your moving into an apartment in  
16 Washington and the date you were confirmed on May  
17 7th?

18 A I don't --

19 Q Between the time you moved to an apartment  
20 in Washington, the weekend before the confirmation --

21 A That was after the confirmation.

22 Q You didn't actually move up until the

1 weekend after your confirmation?

2 A I came up here and stayed at a hotel. I  
3 don't know if I got moved into the apartment myself  
4 until after I was confirmed.

5 Q During the week before your confirmation,  
6 did you have briefings?

7 A I was here the week before. I came up on  
8 the night of the 4th, before I was confirmed. I do  
9 not believe I had briefings that week.

10 Q During the week before your confirmation or  
11 during the days before your confirmation, when you  
12 were in Washington, did anybody prepare you for your  
13 confirmation hearings?

14 A You will have to be more specific because I  
15 want to answer your question correctly.

16 Q During the days before your confirmation --

17 A Right, you are talking about which days?

18 Q From the 4th until the 6th, did anybody  
19 from the -- any government agency meet with you in  
20 connection with any preparation for the hearings?

21 A I don't recall.

22 Q How did you prepare for the hearings?

1 A I had extensive briefings for -- from each  
2 one of program heads, as I already described, and  
3 then I took that information and I studied it. I  
4 studied it with -- I studied it as thoroughly as I  
5 could.

6 Q Did you work with anybody, when you were  
7 studying it, from the Administration?

8 A There were several people who were at the  
9 SBA already, but I spent time with -- the program  
10 heads, I believe, briefed me, and the chief of staff  
11 at the SBA was involved in setting those up.

12 Q When you were confirmed as administrator,  
13 was there a general counsel in place?

14 A No, there was an acting general counsel.

15 Q When did the Presidentially appointed  
16 counsel --

17 A I am not sure about -- sometime thereafter.

18 Q In 1993?

19 A Yes.

20 Q What is his name?

21 A John Spotilia.

22 Q Did you play a role in his appointment?

---

1 A I picked out John, yes.

2 Q From a list of people or from --

3 A From a list of people.

4 Q How many people were on the list?

5 A I just would be guessing.

6 Q Approximately?

7 A I don't know.

8 Q Who furnished the list to you?

9 A Presidential personnel.

10 Q Who in particular?

11 A Presidential personnel.

12 Q Was there an individual?

13 A I don't remember the person who had  
14 responsibility for that. It could have been -- she  
15 became general counsel at Commerce, I don't recall --  
16 Ginger Lu or it could have been -- he became -- he  
17 was acting head of minority business development  
18 operation at Commerce, but I don't remember his  
19 name. Those were two principal people in White House  
20 personnel that supplied the list.

21 Q What were you told about how you should  
22 make your selection, if anything?

1 A Of what?

2 Q Of a general counsel.

3 MR. SILBERT: Is this relevant?

4 MR. CHERTOFF: It is relevant to establish  
5 his knowledge about the background of the general  
6 counsel.

7 THE WITNESS: Can you just be more specific  
8 and I will try to answer it.

9 BY MR. CHERTOFF:

10 Q When you were furnished a list of names,  
11 what were you told?

12 A I was given a list of all the people and  
13 told, you know, to make my selection. I mean to --  
14 they had to approve everything that we did, but  
15 sometimes I selected people that were not on the list  
16 for other jobs, not for that particular job, and  
17 sometimes I selected the people on the list, but I  
18 had to interview at least all the people on the  
19 list.

20 Q How did you come to select Mr. Spotilia?

21 A At least -- at least two ways. He was  
22 strongly recommended by Mrs. Clinton, and -- or not

---

28

1 her, but her office, and -- and his qualifications  
2 were superior.

3 Q Who in her office recommended him?

4 A I don't remember.

5 Q In what form did the recommendation come?

6 A I don't remember.

7 Q Were you called?

8 A I don't remember.

9 Q Was there a particular basis for the  
10 recommendation, do you recall?

11 A All I remember is his qualifications were  
12 literally superior.

13 Q And were you aware at the time you hired  
14 him that he knew the Clintons socially?

15 A I was aware he knew the Clintons, yes.

16 Q What was your understanding of his  
17 relationship with the Clintons at the time you hired  
18 him?

19 A He had worked in the campaign, and he had  
20 gone to Georgetown and Yale Law School with the  
21 Clintons.

22 Q When did you first become aware of Capital



1 Management and David Hale?

2 A I think I became aware of Capital

3 Management and David Hale sometime in the month of  
4 May.

5 Q And how did you become aware of it?

6 A I believe I had a briefing.

7 Q When was the briefing?

8 A I believe it was in the middle of May,  
9 after Small Business -- I think -- I am not positive  
10 about the date and I don't have a calendar for that  
11 time period.

12 Q Were you briefed about Capital Management  
13 before you were confirmed?

14 A I don't remember being briefed about  
15 Capital Management before I was confirmed.

16 Q Were you briefed about any specific cases  
17 in the week before your confirmation?

18 A I don't remember being briefed about any  
19 specific cases in the week before my confirmation.

20 Q Is there any reason you would have sought  
21 information about specific cases in the week before  
22 your confirmation?

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30

1 A Only if it had been brought to my attention  
2 and I felt I might be asked a question about it,  
3 otherwise, I can't imagine asking anything about  
4 specifics, I had so much to learn and get ready for.

5 Q Is your recollection that during the three  
6 days before your confirmation you were focusing your  
7 attention on upcoming hearings and not upon the  
8 handling of individual cases?

9 A Yes, sir.

10 Q Do you know Wayne Foren?

11 A Yes, sir, I do.

12 Q In May 1993, what was his position?

13 A I may get the exact title incorrect, but he  
14 was, I think, associate administrator and he was in  
15 charge of the SBIC and SSBIC programs.

16 Q Were the SBIC and SSBIC programs subjects  
17 of particular interest to you at SBA?

18 MR. SILBERT: Do you have a period of  
19 time?

20 MR. CHERTOFF: At any time.

21 THE WITNESS: No. Not of particular  
22 interest.

1 I believed in the program, and -- but, no.

2 BY MR. CHERTOFF:

3 Q On May 5th, 1993, did Mr. Foren brief you  
4 on the status of an investigation involving Capital  
5 Management Services in Little Rock, Arkansas?

6 A I do not recall Mr. Foren briefing me on  
7 May 5th at all.

8 Q Do you recall him briefing you on any day  
9 before your confirmation?

10 A Yes, sir. I recall Mr. Foren and others  
11 briefing me at the Old Executive Office Building on  
12 the SBIC and the SSBIC program.

13 Q When was that?

14 A I cannot tell you exactly when it was.  
15 There was this whole schedule of briefings where I  
16 had people come in from all the different departments  
17 of the SBA, and there are a lot of them.

18 Q Was the briefing before your confirmation  
19 by Mr. Foren in the period of time between May 4th,  
20 when you arrived in Washington, and May 7th, when you  
21 were confirmed?

22 A I do not think so.

1 MR. CHERTOFF: I am going to show you what  
2 I would like to have marked as Exhibit EB-3 for  
3 identification.

4 (EB Exhibit 3 identified.)

5 BY MR. CHERTOFF:

6 Q I am going to show you what has been marked  
7 as EB Exhibit 3 for identification, and ask you --

8 MR. IVEY: Could we get a description of  
9 what it is.

10 BY MR. CHERTOFF:

11 Q For the record, it was previously marked as  
12 a document in -- document 1 in a prior deposition,  
13 "Capital Management Services in Little Rock,  
14 Arkansas, summary background." It's two pages, and I  
15 know counsel have that.

16 MR. BRENNER: One of the Foren exhibits.

17 MR. IVEY: Which one?

18 MR. CHERTOFF: It says "document 1" on it.

19 BY MR. CHERTOFF:

20 Q Have you ever seen this document before?

21 A I certainly don't have any memory of seeing  
22 it before, but that doesn't mean I haven't, I just

1 don't -- I don't have any recollection of seeing this  
2 document before.

3 MR. IVEY: Could you read back the answer.

4 (The reporter read the record as requested.)

5 BY MR. CHERTOFF:

6 Q Reading the document, does it refresh your  
7 recollection --

8 A I haven't even read it yet. You just gave  
9 it to me.

10 (Witness reviewed the document.)

11 THE WITNESS: All right.

12 BY MR. CHERTOFF:

13 Q Does this document refresh your  
14 recollection that you were briefed about Capital  
15 Management Services on May 5th, 1993?

16 A No.

17 Q Do you remember being briefed about a  
18 referral --

19 A This thing has a date on May 5th, the last  
20 thing deals with some matter on May 5th?

21 Q I can't get into a dialogue with you. I  
22 just have to ask you questions.

1 Were you aware that -- let me withdraw the  
2 question.

3 When, if ever, did you first become aware  
4 that the matter of Capital Management Services had  
5 been referred to the Inspector General's Office for  
6 investigation?

7 A I don't know. As I previously said, the  
8 first memory I have of Capital Management is, I  
9 believe, in -- when I was briefed in mid-May, and  
10 I -- I think I was told then it was being handled by  
11 the proper legal authorities. I don't remember if  
12 that was the IG or the Justice Department.

13 Q Did you first learn about Capital  
14 Management Services after it had been referred or  
15 while the -- or before it had been referred?

16 A Honestly, the first thing I remember is the  
17 May -- the mid-May meeting.

18 Q Were you asked your permission or approval  
19 to refer?

20 A I just don't recall.

21 Q Now, you do remember a mid-May briefing; is  
22 that correct?

1 A I believe I remember being briefed in  
2 mid-May in my office at the SBA.

3 Q Was that on or around May 19th?

4 A I honestly don't -- I don't have a calendar  
5 so I don't -- I don't know.

6 MR. CHERTOFF: I ask that this be marked as  
7 EB-4 for identification. This is a document in the  
8 package dated May 19, 1993.

9 (EB Exhibit 4 identified.)

10 BY MR. CHERTOFF:

11 Q What do you recall of that mid-May briefing  
12 in your office?

13 A I want to be sure that you understand that  
14 I could be collapsing that -- what I read  
15 subsequently to that or what I was told at other  
16 times subsequent to that, but I will tell you what I  
17 think I remember.

18 I believe -- do you want to know just about  
19 what I remember being told about Capital Management  
20 or anything else?

21 Q Well, let me ask you this, then, first of  
22 all: What was the general subject of the meeting?

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1 A I think I was told about troubled SBIC --  
2 SSBIC's at this meeting, I think.

3 Q And how many SSBICs approximately were you  
4 told about?

5 A I don't remember.

6 Q What were you told about Capital Management  
7 Services?

8 A I believe I was told it was a troubled SBIC  
9 in Arkansas that was owned and run by this judge down  
10 there, that he had obtained money on some kind of  
11 false basis and that he had misinvested that money, I  
12 think in businesses he had an ownership in, I think  
13 is what I was told.

14 Q Were you told anything about the businesses  
15 he invested in?

16 A I don't know.

17 Q Were you told that the governor of Arkansas  
18 had some kind of business relationship with him?

19 A At some point in time -- I don't know if it  
20 was that meeting or some later time -- I was told  
21 that the governor of Arkansas -- that he had made  
22 loans to the governor of Arkansas. I may have read



1 that in the GAO report after that, I just don't  
2 remember when. I may have read it in the newspaper  
3 or I may have been told it that the meeting or  
4 subsequent meeting. I just don't know when I learned  
5 that.

6 Q Were you given a document at the mid-May  
7 meeting concerning the subject you had been briefed  
8 about?

9 A I don't remember.

10 Q Was it your practice when you were going to  
11 be briefed to require or solicit a memorandum in  
12 advance?

13 A Generally, I was given a memorandum in  
14 advance at most meetings.

15 Q Were there occasions when you were given a  
16 memorandum at the meeting?

17 A Yes.

18 Q Was it Mr. Foren's practice when he briefed  
19 you on matters to give you a memorandum, either  
20 before the meeting or during the meeting?

21 A I actually don't remember.

22 Q I am going to show you what has been marked

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1 as Exhibit EB-4 for identification and ask you if you  
2 have previously seen that.

3 MR. KRAVITZ: Mike, could you keep your  
4 voice up a little bit.

5 Mr. Bowles, if you could speak up a little,  
6 too. The acoustics here are terrible.

7 THE WITNESS: I don't remember this  
8 specific piece of paper.

9 BY MR. CHERTOFF:

10 Q Does the content of EB Exhibit 4 for  
11 identification refresh your memory about what you  
12 were told during the course of this mid-May meeting?

13 A No. I remember having a meeting in  
14 mid-May.

15 Q Do you remember in the mid-May meeting  
16 being told that the matter had been referred to the  
17 Inspector General for investigation?

18 A I remember at some point in time being told  
19 that the matter had been referred to the -- to some  
20 kind of legal authority, I don't remember if it was  
21 the IG or the Justice Department.

22 Q Did you have a particular interest in

1 Capital Management in May of 1993?

2 A I don't think so.

3 Q Did you have a particular interest in  
4 determining which SBIC cases were the subject of  
5 criminal investigation in May of 1993?

6 A No.

7 Q Did you have dinner with Mr. McLarty in May  
8 of 1993?

9 A No.

10 Q Did you ever have dinner with Mr. McLarty?

11 A Yes.

12 Q When?

13 A In 1994.

14 Q During the year 1994, it is your testimony  
15 you had dinner with Mr. McLarty?

16 A That's correct.

17 Q Did you have any meals with Mr. McLarty in  
18 1993?

19 A It's possible that when the President  
20 has -- the President has a group had CEOs to come to  
21 the White House for lunch, and I have been at those  
22 and I think Mac McLarty has been at those, too, but I

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1 don't remember if that was 1993 or 1994 without  
2 looking at my calendar.

3 Q Excluding group meals, have you had any  
4 one-on-one meals with Mr. McLarty in 1993?

5 A No.

6 Q How did you come to be -- take a position  
7 at the White House?

8 A I was thinking about leaving the SBA.

9 Q When was this?

10 A Toward the -- over the summer of 1994. I  
11 felt I had accomplished about all I could accomplish  
12 there. And I think they were looking for someone at  
13 the White House who -- who had shown some ability in  
14 organization and structure and focus. And I think I  
15 was one of the people that they considered to bring  
16 in.

17 Q So what happened?

18 A I talked with several people at the White  
19 House and eventually talked to Leon several times --  
20 Leon Panetta several times and talked to the  
21 President, I believe, once, and was eventually  
22 offered the job.

1 Q Did you have a discussion with Mr. McLarty  
2 in 1993 about David Hale and Capital Management?

3 A To the best of my knowledge, I did not.

4 Q Did you tell Mr. Foren in 1993 that you had  
5 had a conversation with Mr. McLarty about Capital  
6 Management?

7 A I do not believe I did.

8 Q What is the next event you recall relating  
9 to Capital Management or David Hale after this May,  
10 mid-May meeting you described?

11 A In late September I had another meeting,  
12 that I recall, on Capital Management.

13 Q In late September?

14 A Yes.

15 Q And how did that meeting come about?

16 A I believe Mr. Teckler came into my office,  
17 came into my office and spent a few minutes with me.

18 Q Who is Mr. Teckler?

19 A Marty Teckler. He was -- had been acting  
20 general counsel and the ethics officer at SBA.

21 Q Was that before Mr. Spotilia came aboard?

22 A I think John Spotilia was already there,

1 but I am not sure.

2 Q If Mr. Spotilia was there, why was  
3 Mr. Teckler the acting general counsel?

4 A I thought I said he had been the acting  
5 general counsel.

6 Q Why did Mr. Teckler come in to see you in  
7 late September?

8 A To tell me something.

9 Q What did he tell you?

10 A I want to stress that I may not be telling  
11 this exactly right, but I believe I am giving you the  
12 right scenario.

13 I think Mr. Teckler came in my office and  
14 said that we were getting ready to indict this Judge  
15 Hale down in Arkansas, and that I might want to call  
16 the White House and give them the heads up.

17 Q And what did you say?

18 A I asked him what a heads up was. I had  
19 never heard that word before. It is not a word that  
20 I had heard used in the business world.

21 Q And what did he say?

22 A He said it was -- that I should just -- it

1 was just notification in case they've got any  
2 inquiries.

3 Q What did you say?

4 A I said is this okay for me to do?

5 Q What did he say?

6 A He said yes, it was standard.

7 Q What else was discussed in this meeting?

8 A I don't -- I don't think any other matter  
9 was discussed in the meeting.

10 Q Now, how did Mr. Teckler get his position?

11 A He was -- he is a career employee at the  
12 SBA.

13 Q When he came in in late September, had  
14 you -- withdraw the question.

15 When he came in in late September, did you  
16 ask him why this particular case would be a matter  
17 the White House would be interested in hearing about?

18 A I don't remember doing that.

19 Q Had there ever been any earlier cases --  
20 withdrawn.

21 Had there been cases before late September  
22 involving indictments in which you either had contact

1 with the White House or it had been suggested to you  
2 that you should contact the White House to give them  
3 some notification?

4 A I was often asked to contact the White  
5 House on any number of matters, but I don't remember  
6 another case. There may have been, but I just don't  
7 remember another case that I was asked to do it on.

8 Q Did you ask Mr. Teckler why he felt the  
9 White House would be interested in hearing about an  
10 indictment of a case?

11 A No, I've repeated to you my basic memory of  
12 the conversation.

13 Q Did you wonder why the White House would be  
14 interested in hearing about the case?

15 A Well, I assumed this was -- you know, this  
16 was a crooked judge down in Arkansas, and they might  
17 get some inquiries, so it made sense to me.

18 Q So who did you call?

19 A I honestly don't remember if I made the  
20 call.

21 Q Did you write to somebody?

22 A I don't believe so.



1 Q Did you communicate this information in any  
2 way to the White House?

3 A I have tried as best I can to remember  
4 whether or not I actually took the time and  
5 communicated it, and I cannot remember communicating  
6 it to anyone. I can tell you I have looked at my  
7 calendar for that time and I think if you look at it,  
8 you can see what I was doing. I had these health  
9 care hearings over here at Congress for the whole day  
10 of the 20th -- and again, I don't remember the day  
11 that Marty came in. I had health care hearings again  
12 on the 21st, I had a preparation for an 8-A hearing  
13 over here also on the 21st. On the 22nd I had an 8-A  
14 hearing over here. And then I went to New York to  
15 make a speech the following morning to the Hispanic  
16 Chamber of Commerce.

17 I don't know when or if I did. I don't  
18 remember contacting anyone.

19 Q Did you ask Mr. Teckler to contact  
20 somebody?

21 A Again, my memory could be incorrect on  
22 here, but I think I -- when Marty said -- let me just

46

1 walk through, so I'll tell it correctly, okay.

2 Q Okay.

3 A He came into my office and told me, I  
4 believe, that we were getting ready to indict this  
5 Judge Hale and that I might want to give somebody at  
6 the White House a heads up on this and I asked him  
7 what a heads up was and he told me.

8 I asked him if it was okay, he said it  
9 was. And I believe I asked him why didn't he just go  
10 ahead and do it and he said he -- I believe he said  
11 he didn't know anybody in the White House counsel's  
12 office, and I think I said fine, I'll take care of  
13 it.

14 Q Did he -- I want to be clear on this. Did  
15 he suggest you let the White House know or you let  
16 the White House counsel's office know?

17 A I don't remember him saying White House  
18 counsel's office.

19 Q When you said back to him, why don't you do  
20 it, your recollection is his reply was I don't know  
21 anybody in the White House counsel's office?

22 A That's correct.

1 Q Did you know anybody in the White House  
2 counsel's office?

3 A Not -- not very well, no.

4 Q Did you know anybody in any way at the  
5 White House counsel's office?

6 A Yes, I think I had talked on the phone with  
7 Bill Kennedy as I went through my confirmation. I am  
8 not sure if I had met Bill Kennedy at this time.

9 Q Between the time you had your mid-May  
10 meeting in which Capital Management was mentioned to  
11 you, and the time of this conversation with  
12 Mr. Teckler in late September, had you been briefed  
13 in any way by somebody in the SBA concerning Capital  
14 Management?

15 A It is certainly possible that I was. I  
16 just don't recall.

17 Q Had Mr. Teckler briefed you previously?

18 A I believe Mr. Teckler was at the May  
19 meeting, but since I don't recall all the briefings I  
20 don't know who would have been there to do it. It  
21 may have been, I just don't recall.

22 Q Did Mr. Foren brief you between May and

1 September?

2 A Again, there may have been briefings. I  
3 don't recall them, and, therefore, I don't recall who  
4 would have given them.

5 Q After this conversation with Mr. Teckler in  
6 late September, what's the next thing you remember  
7 concerning Capital Management?

8 A I remember a conversation with John  
9 Spotilia in November of 1993.

10 Q What was the conversation?

11 A Again, I'm summarizing, I don't know if I  
12 am saying it exactly as happened. I think John told  
13 me that he had previously sent some documents, I  
14 think he said public documents, over to the White  
15 House counsel's office on Capital Management.

16 Q And what did you say?

17 A And -- and I said, John, did you check that  
18 out with anybody first, he said no. And I said,  
19 look, I don't know if this is good or bad, up or  
20 down, right or wrong, but I think you ought to check  
21 with somebody at the Justice Department to make sure  
22 this is okay.

1 Q When -- was this a discussion with  
2 Mr. Spotilia at your initiative or at his initiative?

3 A I don't even remember what the -- I think  
4 it was in -- I don't know, it could have been by my  
5 office, but I don't know. I don't know the  
6 circumstances surrounding it.

7 Q Do you remember whether there was an event  
8 that prompted this discussion?

9 A I honestly don't know.

10 Q Did Mr. Spotilia indicate to you why he was  
11 talking to you about this?

12 A I'm sure he did. I just don't recall.

13 Q Is there anything else you remember about  
14 this conversation?

15 A I believe I told John at this point in time  
16 that I had recused myself from this matter.

17 Q In November?

18 A Yes.

19 Q When did you recuse yourself?

20 A I believe on or about this time.

21 Q In November?

22 A Yes.

1 Q Why did you recuse yourself?

2 A In -- I am going on memory, so I don't know  
3 exactly. In November of 1993, I think that's when  
4 there were a whole bunch of articles in the newspaper  
5 about Judge Hale and the allegations that were trying  
6 to connect the President to Capital Management. And  
7 I had, previous to that, been actively involved in  
8 this health care fight over trying to educate the  
9 small business people about the President's health  
10 care plan and in the course of that, we had printed a  
11 health care brochure that explained the President's  
12 Health Care Act to the small business populace, and I  
13 had -- the people over here had questioned whether or  
14 not that was an ethical thing to do.

15 MR. SILBERT: When you say "people over  
16 here" --

17 THE WITNESS: People over here in Congress,  
18 and that was a real -- I was really surprised. I  
19 mean, really, really surprised because I didn't think  
20 there was a thing wrong with this health care  
21 brochure at all, and I guess that the point in  
22 time -- I guess I began to realize that perception

1 over here is very, very important. I know reality is  
2 important, but perception is very important and I  
3 felt the proper thing for me to do in this case, if  
4 somebody was making those allegations, even though  
5 I -- you know, I don't know anything about it, was to  
6 recuse myself so that I wouldn't even give a  
7 perception of impropriety.

8 BY MR. CHERTOFF:

9 Q So you made a decision on your own in  
10 November, when you read articles about David Hale in  
11 the paper, to recuse yourself from any handling of  
12 that matter?

13 A I can't tell you when. My sister died  
14 November 2, and I was in North Carolina for about a  
15 week, and then I came back and went to Des Moines for  
16 some town hall meetings -- I don't know. You have  
17 the calendar. I don't know exactly when I did it.

18 Q Was your decision to recuse yourself made  
19 before you had your conversation with Mr. Spotilia in  
20 November about documents going over to the White  
21 House?

22 A I don't know.

1 Q Was it made in November?

2 A I think so, but I am not positive.

3 Q Was it made before the end of the year?

4 A Yes, I think it was.

5 Q Did you write a memorandum to someone about  
6 that?

7 A No, I didn't.

8 Q Did you tell somebody?

9 A I believe I told -- I believe I told  
10 Mr. Spotilia and I believe I told Mr. Teckler.

11 Q When did you tell Mr. Teckler?

12 A I don't know.

13 Q When did you tell Mr. Spotilia?

14 A I don't know.

15 Q Did you tell Mr. Spotilia during a  
16 conversation in which the subject of documents going  
17 to the White House was discussed?

18 A I believe I told him -- as I mentioned  
19 earlier, I don't remember if I told him previously or  
20 not.

21 Q But at least as of the time of that  
22 conversation you had told Mr. Spotilia that you were



1    recusing yourself from this?

2       A    Yes, sir.

3       Q    Who did you designate to make decision in  
4    your place?

5       A    I believed it was going to be handled  
6    whatever the appropriate way was. I don't think I,  
7    you know, picked out one particular person. I may  
8    have said the deputy administrator, but I just don't  
9    remember.

10      Q    Did you say -- to whom did you say or did  
11    you -- whom did you possibly say, the deputy  
12    administrator?

13      A    I don't know, sir.

14      Q    Did you tell the deputy administrator  
15    before the end of 1993 that he or she was supposed to  
16    act as administrator in anything to do with Capital  
17    Management?

18      A    I don't remember having a conversation, but  
19    I may have.

20      Q    Was your concern about recusing yourself  
21    motivated by a relationship you had with the  
22    President or the First Lady?

1       A    My concern about recusing myself was not to  
2    even give the perception of improprieties.

3       Q    And the particular impropriety you were --  
4    or the particular perception of impropriety you were  
5    concerned about was what?

6       A    Was that I had been appointed by the  
7    President, I felt -- I felt close to the President,  
8    even though I hadn't spent a lot of time with him,  
9    and I just felt it was the right thing to do. It was  
10   just a judgment.

11      Q    After this conversation with Mr. Spotilia  
12    in November about the documents, what's the next  
13    thing you recall concerning Capital Management?

14      A    Oh, gosh, not much. At some point in time  
15    I put my recusal in writing.

16      Q    When was that?

17      A    I think it was the next year, and I  
18    remember -- I remember -- I remember when I did it.

19      Q    When did you do it?

20      A    I mean, I don't remember the date, but I  
21    remember the deputy administrator and I had dinner  
22    with Congressman LaFalce, which we often did. One of

1 the things he asked me at dinner, and we talked a lot  
2 at dinner, but I remember he asked me if my recusal  
3 was in writing, and I said no, it wasn't. I don't  
4 remember anything about it, but he asked me if my  
5 recusal was in writing and the next day I did put it  
6 in writing.

7 Q How did the conversation of recusal come up  
8 with Congressman LaFalce?

9 A I don't remember.

10 Q Did he bring it up?

11 A I don't remember.

12 Q Had he previously discussed the subject of  
13 recusal?

14 A I don't remember.

15 Q Were you discussing Capital Management with  
16 him on that evening?

17 A I don't remember.

18 Q Had you discussed Capital Management with  
19 him before?

20 A I don't remember.

21 Q Was there any event occurring in Washington  
22 at the time you put your recusal in writing that may

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1 have spurred the discussion?

2 A Could be. I don't know.

3 Q Did it have to do with Roger Altman?

4 A I don't know when Roger went through that,  
5 but no. I mean, it could have.

6 Q Did you -- I want to take you back now to  
7 the summer of 1993, particularly in August. Did you  
8 get a copy of a draft indictment on Capital  
9 Management?

10 A I don't recall it.

11 MR. CHERTOFF: I am going to show you what  
12 we will mark as EB-5 for identification.

13 (EB Exhibit 5 identified.)

14 BY MR. CHERTOFF:

15 Q EB-5 is a memorandum marked "privileged and  
16 confidential," to Erskine Bowles from Wayne Foren,  
17 entitled "Capital Management Services, Inc., Little  
18 Rock, Arkansas," dated August 9, 1993.

19 Have you seen that before?

20 A Probably. I just don't remember seeing  
21 it.

22 Q Do you recognize the handwriting, the

1 signature of Wayne Foren and Martin Teckler?

2 A Yes, I do.

3 Q Is that Mr. Foren's signature?

4 A I don't remember his signature, what it  
5 looked like.

6 Q Is that Mr. Teckler's signature?

7 A I don't remember his signature, either.

8 Q Do you see the handwriting in the margin?

9 A Yes.

10 Q Is that your handwriting?

11 A It doesn't look like it, no.

12 Q Do you know whose handwriting it is?

13 A Sorry, I don't.

14 Q Do you recall seeing this memo?

15 A As I said previously, I don't. It doesn't  
16 mean I didn't get it. I just don't remember seeing  
17 it.

18 Q As of August 9, 1993, did you have several  
19 discussions --

20 MR. SILBERT: May I ask a question?

21 MR. CHERTOFF: Yes.

22 MR. SILBERT: The memo -- you have been

1 asking him about the memo and the two pages attached  
2 to it. Do we know whether they were attached -- are  
3 you asking whether they were attached? Your  
4 questions relating to the memo, do they include the  
5 draft?

6 MR. CHERTOFF: When I am asking the  
7 questions, I am asking about page 1, I will get to  
8 the attachments later.

9 MR. SILBERT: I just wanted to be sure the  
10 record was clear.

11 THE WITNESS: Can I just read this a  
12 second?

13 MR. CHERTOFF: Sure.

14 THE WITNESS: Okay.

15 BY MR. CHERTOFF:

16 Q Now, as of August 9, 1993, had you had  
17 discussions with Mr. Foren concerning the progress of  
18 the criminal investigation into Capital Management?

19 MR. SILBERT: You mean beyond the mid-May  
20 meeting?

21 BY MR. CHERTOFF:

22 Q Yes, after May.

1 A As I previously stated, I remember a  
2 meeting in May. I remember Marty coming in in  
3 September, there may very well have been meetings in  
4 between. I just don't recall.

5 Q I want to direct your attention to the  
6 pages attached.

7 A Yes.

8 Q Have you seen these before?

9 A Not that I remember.

10 Q Was it your custom to get copies of draft  
11 indictments?

12 A Not that I remember.

13 Q I want to direct your attention to --

14 MR. IVEY: Could we hold up just a second.

15 (Pause.)

16 You can keep going. My only question is --  
17 and I will put this on the record, if I could -- is  
18 the document you have given the witness I have a copy  
19 of. It was given to us by another witness, but to  
20 the best of my knowledge that doesn't necessarily  
21 mean that the draft indictment and the memorandum are  
22 connected. They just happened to be together.

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1 MR. CHERTOFF: We will see what the witness  
2 says.

3 MR. IVEY: The pause was as counsel for the  
4 Republicans were looking through the document  
5 production, to see if that was, in fact, the case.

6 MR. BRENNER: Can we go off the record for  
7 a minute, please.

8 MR. CHERTOFF: Sure.

9 (Discussion off the record.)

10 (Recess.)

11 BY MR. CHERTOFF:

12 Q Mr. Bowles, does Exhibit 5 for  
13 identification refresh your memory that in or around  
14 August of 1993 you had been told that a draft  
15 indictment was in the works?

16 A I think if you look at my calendar I  
17 supplied to you earlier you can see I was on vacation  
18 the beginning -- I think July 31 and through August  
19 8, Sunday. I did not return until August 9.

20 Q August 9 was your first day back?

21 A Yes, and I had -- that morning I had,  
22 because I looked at my calendar, I had a meeting that



1 lasted the entire morning, so I was just back.

2 Q Who was the meeting with that lasted the  
3 entire morning?

4 Just for ease of everybody here, you are  
5 referring to Exhibit 2, which is your U.S. government  
6 appointment book?

7 A Yes, sir. Secondary market meeting looks  
8 like it lasted until 3:00, then I was supposedly  
9 prepared for NPR, national performance review. These  
10 things change, so -- but that's what the book says.

11 Q On or around August 9 or within the few  
12 days thereafter, does this Exhibit 5 for  
13 identification refresh your memory that you were  
14 informed that a draft indictment of Mr. Hale was in  
15 the works?

16 A I don't remember.

17 Q Was it your practice to request status  
18 reports on the status of criminal investigations  
19 involving SBICs?

20 A No.

21 Q Can you think of any instances, other than  
22 that which is set forth before you on Exhibit 5,

1 where, in Capital Management, where you asked for or  
2 received status reports about criminal investigations  
3 involving other companies, besides Capital  
4 Management?

5 A I don't remember getting this, although I  
6 am not denying by any stretch of the idea, but I  
7 don't remember getting any others, either.

8 MR. SILBERT: By "this," you mean  
9 Exhibit 5, the top page memo? When you say "I don't  
10 remember getting this" --

11 THE WITNESS: I don't remember -- sorry, I  
12 don't remember getting this particular memo.

13 BY MR. CHERTOFF:

14 Q Now, I want to be clear on this. Is it  
15 your testimony that you did not receive a copy of the  
16 draft indictment relating to David Hale?

17 A No, sir, that's not my testimony. My  
18 testimony was that I don't remember receiving this  
19 August 9 memorandum from Wayne, or the draft  
20 indictment that you have stapled to it.

21 Q You don't recall one way or the other?

22 A No, sir.

1 Q Was it your custom and practice to request  
2 draft indictments of cases, criminal cases relating  
3 to the SBA when you were administrator of the SBA?

4 A No, sir.

5 Q Can you think of any reason you would have  
6 specifically asked for a draft indictment relating to  
7 Hale or Capital Management?

8 A No, sir.

9 Q Was it the practice of Mr. Foren, as you  
10 recall it, in 1993 to volunteer draft indictments  
11 concerning criminal cases involving the SBA to you?

12 A Not that I remember.

13 MR. CHERTOFF: I show you what has been  
14 marked as EB-6 for identification.

15 (EB Exhibit 6 identified.)

16 BY MR. CHERTOFF:

17 Q I am going to show you what has been marked  
18 as EB-6 for identification and ask you if recognize  
19 that document.

20 MR. IVEY: Mike, could you tell me what it  
21 is?

22 MR. CHERTOFF: It is a document dated

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1 September 21, 1993 to Erskine Bowles from Wayne  
2 Foren, re: Capital Management Services, Inc.

3 MR. IVEY: Thank you.

4 THE WITNESS: What is your question, sir?

5 BY MR. CHERTOFF:

6 Q Do you recognize that document?

7 A I don't remember receiving this document.  
8 I am not saying I didn't receive it. I don't  
9 remember receiving it.

10 Q Does the format of the document look  
11 familiar to you as the kind of document that you  
12 typically received when you were administrator of the  
13 Small Business Administration?

14 A Mr. Chertoff, I received documents that  
15 were small, documents that were hundreds of pages  
16 thick.

17 Q I mean the format, the general letterhead,  
18 the general format of the first page; does it look  
19 familiar?

20 A It's -- there was no standard format at the  
21 SBA for transmitting of information. I received  
22 information of all shapes, forms and kinds.

1 Q Do you remember getting briefed by  
2 Mr. Foren that the U.S. Attorney's Office was  
3 preparing to make the presentation to the grand jury  
4 on September 21, 1993?

5 A No, sir, I did not.

6 Q Does this memorandum relate in any way to  
7 the conversation you described with Mr. Teckler, in  
8 which Mr. Teckler indicated that you should consider  
9 giving a heads up to the White House?

10 A I remember the conversation with  
11 Mr. Teckler. I do not remember this document.

12 Again, I think if you will look at my  
13 calendar, for the days of the 20th, the 21st and the  
14 22nd, you will see that they were days filled with a  
15 lot of activity. I was virtually out of SBA the  
16 whole day on the 20th, which I think is a Monday,  
17 doing the health care workshops over here at the  
18 Congress for various Senators and Representatives  
19 from both parties, I think.

20 I think I did that again the next morning.  
21 I had 8-A preparation -- preparation for 8-A hearing  
22 the next day which was always something that took a

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1 lot of preparation. I had the 8-A hearing that  
2 morning and later that day I left New York to go  
3 to -- to the U.S. Hispanic General -- meeting.

4 Q Did Mr. Foren -- during the time you were  
5 administrator of SBA and Mr. Foren was associate  
6 administrator, did he have to make appointments to  
7 see you in advance?

8 A Most people would make appointments, but  
9 some people would pop in, and I did not try to limit  
10 that.

11 Q Would Mr. Teckler pop in?

12 A Yes.

13 Q Would Mr. Foren pop in?

14 A Probably.

15 Q Are you -- is it your testimony that on any  
16 days in which Mr. Foren is not listed on your  
17 calendar, that that's a -- that that establishes you  
18 didn't see Mr. Foren on that day?

19 A No, I would not say that.

20 Q And is the same true with respect to  
21 Mr. Teckler, that the fact that Mr. Teckler's name  
22 does not appear on the calendar does not mean that

1 you didn't see him on that day?

2 A That's correct.

3 Q Do you recall asking Mr. Foren to give you  
4 memos on a monthly basis concerning Capital  
5 Management?

6 A No, I do not.

7 Q Was it your practice to ask Mr. Foren for  
8 monthly memos relating to any particular case in a  
9 criminal investigation?

10 A No, I do not.

11 Q Now, is it your -- now, you testified  
12 earlier that you were in the regular practice of  
13 having dinner with Congressman LaFalce; when did that  
14 practice begin?

15 A I don't remember, sir.

16 Q Did it begin in 1993?

17 A I don't remember, sir.

18 Q In November 1993, did Mr. LaFalce raise  
19 with you personally the issue of Capital Management  
20 Services?

21 A I don't remember it, sir.

22 Q Did he raise it with you by letter?

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1 A I received some correspondence from several  
2 people on the Hill, which I'm -- I know that  
3 Congressman LaFalce was having, I think, the GAO  
4 investigate Capital Management, so I assume at some  
5 point in time I got a letter from him.

6 MR. CHERTOFF: Mark this EB-7 for  
7 identification.

8 (EB Exhibit 7 identified.)

9 BY MR. CHERTOFF:

10 Q I am going to show you EB-7 for  
11 identification, which is a letter dated November 4,  
12 1993, to you from Mr. LaFalce. Do you recognize the  
13 letter?

14 A I don't, but I don't doubt that it came to  
15 the SBA.

16 Q Do you remember the inquiry?

17 A If you notice, the date is November 4th. I  
18 believe I was in North Carolina, that was when my  
19 sister died. Not to say I didn't get this at some  
20 later point in time, but I doubt I would have focused  
21 on it at that point in time. Normally, things come  
22 in and they are circulated to the appropriate people



1 to handle when it comes in -- when a Congressional  
2 inquiry comes addressed to me, it is normally  
3 circulated to the appropriate people.

4 MR. CHERTOFF: Let me show you what has  
5 been marked or we will have marked as EB Exhibit 8.

6 (EB Exhibit 8 identified.)

7 BY MR. CHERTOFF:

8 Q I show you Exhibit 8 for identification.  
9 Take a look at it. In particular, I would like to  
10 direct your attention to the signature page, page 4.

11 MR. IVEY: What is this, Mike?

12 MR. CHERTOFF: A letter dated November 15,  
13 1993 to Congressman LaFalce from Erskine Bowles.

14 BY MR. CHERTOFF:

15 Q Do you recognize this document?

16 A Just -- I'm sorry. Give me a moment. I  
17 remember that we sent information to the Congress. I  
18 can remember making explicit instructions, I believe  
19 to our legal counsel and to the people in our  
20 Congressional affairs office that we were to  
21 cooperate wholly, completely, thoroughly with the  
22 appropriate folks who were looking at this situation.

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1 Q Did you know what they were looking at?

2 A I'm sorry, I don't understand.

3 Q Did you know what Mr. LaFalce was looking  
4 at?

5 A I don't -- no -- I think I knew he was  
6 looking at Capital Management.

7 Q Do you know why he was interested in it?

8 A Again, I don't know. After the stuff  
9 started coming out in the newspapers, you know, I  
10 think all of us were -- were aware of what Judge Hale  
11 was saying. I don't know that, I don't think I had  
12 any knowledge.

13 Q As of November 15, 1993, had you had any  
14 conversations with Congressman LaFalce during any  
15 dinners about Capital Management?

16 A As I said earlier, I don't remember having  
17 any other conversations about Capital Management with  
18 Congressman LaFalce.

19 Q Had you recused yourself as of November 15,  
20 1993?

21 A As I said earlier, I don't remember exactly  
22 when I recused myself.

1 Q Did you recuse yourself as a result of  
2 sending this letter?

3 A No, I don't think so.

4 Q Your testimony earlier, I believe, was that  
5 as of the time you met with Mr. Spotilia in November,  
6 to discuss the fact that Mr. Spotilia had sent  
7 documents to the White House, you had recused  
8 yourself?

9 A Yes, I think that's correct.

10 Q Do you remember when in November that  
11 meeting was?

12 A No, sir, I do not.

13 Q Is it your recollection that as of November  
14 15, you had not recused yourself?

15 A I honestly just do not know.

16 Q Is there anything in this letter of  
17 November 15 in which you indicated to Congressman  
18 LaFalce that you were recusing yourself?

19 A No, sir.

20 Q Did you tell Congressman LaFalce in 1993  
21 that you had recused yourself?

22 A I don't remember that.

1 Q Now, do you know what the Privacy Act is?

2 A No, sir.

3 Q Are you aware of any restrictions on the  
4 dissemination of information that's derogatory about  
5 individuals that is held in government files?

6 A To a limited extent.

7 Q What is your understanding of those  
8 restrictions?

9 A Well, I think basically I thought you  
10 couldn't -- I don't know if I know anything about it  
11 or not. I thought you just couldn't make public  
12 stuff that was in private files.

13 Q Do you know who Neil Eggleston is?

14 A I have heard the name, but I don't know who  
15 he is.

16 Q Have you ever spoken to him?

17 A Not to the best of my knowledge.

18 MR. CHERTOFF: I am going to show you what  
19 we're going to mark as Exhibit 9 for identification.

20 (EB Exhibit 9 identified.)

21 BY MR. CHERTOFF:

22 Q Exhibit 9 is a document headed "fax

1 transmission sheets," 11/16/93, 3:20 p.m., subject:  
2 Capital Management to Neil Eggleston from John  
3 Spotilia. Have you ever seen this before?

4 A No.

5 Q I want to direct your attention to the  
6 second page of that --

7 MR. SILBERT: Are there two?

8 MR. BRENNER: That's my mistake.

9 MR. CHERTOFF: I'm sorry, we Xeroxed a  
10 second copy.

11 BY MR. CHERTOFF:

12 Q On the second page, there is a letter that  
13 says "Dear Neil: Enclosed is a copy of Erskine's  
14 letter yesterday to Chairman LaFalce with  
15 confidential attachments hand delivered." Have you  
16 ever seen that letter before?

17 A No, sir.

18 Q The first time you learned that this  
19 material had been sent over to the White House was  
20 when Mr. Spotilia came in and told you about it?

21 A After it had been sent.

22 Q And what did you say to him?

1 A Exactly what I told you earlier, that I  
2 asked him if he had checked it with anybody ahead of  
3 time and I told him I didn't know whether it was good  
4 or bad, up or down, right or wrong, but he ought to  
5 check it out with the Justice Department.

6 Q In the conversation you had with  
7 Mr. Spotilia, did he indicate that he had sent  
8 confidential attachments to the White House?

9 A I don't remember him telling me much more  
10 than what I have already said.

11 MR. CHERTOFF: Let's mark for  
12 identification as Exhibit 10 --

13 (EB Exhibit 10 identified.)

14 BY MR. CHERTOFF:

15 Q -- a letter dated November 20, 1993 from  
16 the White House to John Spotilia that says "enclosed  
17 please find the attachments to the public report from  
18 Administrator Bowles to Chairman LaFalce, House  
19 Committee on Small" -- the Small Business  
20 Administration provided earlier this week. In view  
21 of the fact that the attachments themselves, although  
22 delivered to the outside committee, were not made

1 public, I am returning them. Have you seen this  
2 document?

3 A No, sir.

4 Q Now, does this document help you to  
5 establish that your -- in your mind, in your  
6 recollection, that your conversation with  
7 Mr. Spotilia was sometime between November 15, when  
8 you wrote the letter to Congressman LaFalce and sent  
9 it and November 20th, when the documents were  
10 returned from the White House?

11 A Yes.

12 Q And so I am still trying to focus your  
13 attention on when you recused yourself. Since you  
14 have testified you recused yourself no later than  
15 your conversation with Mr. Spotilia about getting the  
16 documents back, does that help to refresh your  
17 recollection that your conversation with Mr. Spotilia  
18 and your recusal occurred before November 20th?

19 MR. IVEY: Read back the question, please.

20 MR. SILBERT: Excuse me, I don't think  
21 Mr. Bowles testified that he was certain. I think he  
22 said he thinks so and so I have a --

1 BY MR. CHERTOFF:

2 Q Your testimony is your best recollection is  
3 when you met with Mr. Spotilia to discuss with him  
4 the fact that he had sent documents over, you had by  
5 that point recused yourself; correct?

6 A Yes, sir, I think that's correct.

7 Q Does the letter of November 20, Exhibit 10,  
8 refresh your recollection that that conversation with  
9 Mr. Spotilia occurred no later than November 20th?

10 MR. KRAVITZ: Mike, that's Exhibit Number  
11 11, I think.

12 MR. CHERTOFF: Number 10.

13 THE WITNESS: Yes, sir, I do think it is  
14 possible that other information was transmitted under  
15 my signature after that.

16 BY MR. CHERTOFF:

17 Q Do you believe there is other information  
18 that went over to the White House --

19 A Not to the White House. I don't know of  
20 anything that went to the White House, but there  
21 could have been other information transmitted to the  
22 Congress under my signature after that, but I did not



1 have any involvement in the preparation of it or  
2 sending of it.

3 Q Well, my question is this: Exhibit 10, the  
4 letter of November 20th, does it indicate to you that  
5 you had recused yourself no later than November 20th?

6 A Yes, sir, I believe that would be correct.

7 Q And with respect to Exhibit 8, which you  
8 previously examined, which is your letter of November  
9 15 to Mr. LaFalce, would you agree with me that  
10 letter contains no reference to your having recused  
11 yourself?

12 A Yes, sir.

13 Q Has that -- can you tell us whether you  
14 recused yourself between November 15th and November  
15 20th?

16 A I didn't make a big deal of this.  
17 Basically, what I told people was that I was  
18 withdrawing from this. I wasn't going to be involved  
19 in it and I made it clear that I wanted them to  
20 pursue it in all -- with all vigor, but I didn't make  
21 a -- this was not a big deal thing.

22 Q Who did you tell?

1 A I think I told that you earlier. I believe  
2 I told Mr. Spotilia. I think I told Teckler. I  
3 think I told our Congressional liaison people.

4 Q That you wanted them to pursue it with  
5 vigor?

6 A That might not have been the exact word,  
7 but I wanted them to pursue it, to cooperate, to do  
8 whatever was the appropriate thing.

9 Q And was that conversation before the  
10 exchange of letters with Mr. LaFalce or afterwards?

11 A It could have been before or after. I just  
12 don't remember, sir.

13 Q Was it in a meeting?

14 A I don't remember if it was in a meeting. I  
15 don't remember the circumstances under which I did  
16 it.

17 Q Was it a series of conversations?

18 A Yes, sir, that's what I think. I would  
19 just tell people I withdraw from this thing, I am not  
20 involved in it, but, you know, you-all should pursue  
21 this thing in the exact right way. Do whatever is  
22 appropriate.

1 Q When were these conversations?

2 A As I told you, I believe they were sometime  
3 in November of 1993.

4 Q Was there a lot of discussion in November  
5 of 1993 within the agency concerning Capital  
6 Management?

7 A I don't remember a lot of discussion, no,  
8 sir. Because we were handling it appropriately.

9 Q And after you had sent your November 15th  
10 letter in to Mr. LaFalce, did you learn that  
11 Mr. LaFalce was not satisfied with the response?

12 A I believe I knew that they asked for more  
13 information and I can remember telling our  
14 Congressional liaison people exactly what I just  
15 said: Look, I am not involved in this thing, but I  
16 want you to cooperate wholly and completely and get  
17 this stuff these people want to them.

18 Q Did Mr. LaFalce talk to you about it?

19 A I don't know if he did or not.

20 Q Were you aware that the information that  
21 was being provided to Congress was confidential?

22 A I don't think I spent any time at all

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1 looking at the information that was supplied to  
2 Congress.

3 Q Were you aware generally that the nature of  
4 the information that was being supplied to Congress  
5 in response to these requests in November of 1993 was  
6 confidential information about an on going  
7 investigation?

8 A No, sir. My only endeavor was to try to  
9 get people to cooperate.

10 Q You were not aware it was confidential  
11 information?

12 A I don't remember.

13 MR. CHERTOFF: I am going to ask that this  
14 be marked as Exhibit 11 for identification.

15 (EB Exhibit 11 identified.)

16 BY MR. CHERTOFF:

17 Q Exhibit 11 is a letter to you from Jan  
18 Meyers of Congress. Do you know Jan Meyers?

19 A I do.

20 Q She is the ranking member -- she was the  
21 ranking member in November 1993 in the Small Business  
22 Committee in the House; is that correct?

1 A That's correct.

2 Q Let me direct your attention to --  
3 withdrawn.

4 Do you remember receiving this letter?

5 A No, sir.

6 Q Let me direct your attention to the last  
7 paragraph. The last sentence says, "as always, this  
8 information will be kept in confidence so as not to  
9 jeopardize any independent investigations." Does  
10 that refresh your memory that you understood that the  
11 information being provided to Congress was meant to  
12 be kept in confidence so as not to jeopardize pending  
13 investigations?

14 MR. SILBERT: This letter comes after the  
15 earlier provision. Are you asking him -- I am not  
16 sure I understand the question in that sense.

17 BY MR. CHERTOFF:

18 Q During the period in November -- at any  
19 time during the period in November of 1993 when you  
20 were providing information to Congress from the Small  
21 Business Administration, were you aware that the  
22 information being provided was to be kept in

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1 confidence because of the need not to jeopardize  
2 ongoing investigations?

3 A No, sir.

4 What I remember is, the letter would come  
5 in, it would go -- as you see here -- to the  
6 appropriate SBA offices. Sometimes I would see them;  
7 sometimes I wouldn't until they were ready to go out  
8 for signature. The only thing that -- the only  
9 discussions I ever had were cooperate completely, do  
10 the right thing, get these people the stuff they  
11 want. And I would always say, look, I am not  
12 involved in this thing, but you've got to cooperate;  
13 you've got to get this stuff to them; you've got to  
14 do the right thing. I think lots of people will tell  
15 that you.

16 Q After the conversation you had with  
17 Mr. Spotilia in November about his providing  
18 documents to the White House, did you ask anybody to  
19 follow up at all on whether all the documents had  
20 been returned?

21 A I -- again, I could be wrong, but I think  
22 John told me that the documents were sent back.

1 Q Did you have any discussion with him at  
2 that time about the appropriateness of having sent  
3 them in the first place?

4 A No. I had made the recommendation that he  
5 contact somebody at the Justice Department to find  
6 out if it was appropriate. I didn't know if it was  
7 appropriate or not appropriate.

8 Q Did you suggest to Mr. Spotilia that he  
9 recuse himself?

10 A "At the time" I asked John if he was going  
11 to recuse himself.

12 Q At the time being November?

13 A Yes, sir.

14 Q What did he say?

15 A He said that he wasn't.

16 Q Did you discuss that with him?

17 A Basically I think he said he didn't see a  
18 need to do it.

19 Q Did you offer an opinion?

20 A No, I just made clear that I was going to  
21 do it.

22 Q Did you ask him to confer with anybody else

1 about doing it?

2 A I don't remember.

3 Q Was this conversation about Mr. Spotilia  
4 recusing himself before or after he had sent the  
5 documents over to the White House?

6 A It was after, because I didn't know  
7 anything about it beforehand.

8 Q Do you know if he ever recused himself?

9 A I don't.

10 MR. CHERTOFF: I am going to mark for  
11 identification Exhibits 12 and 13. Let's do 12  
12 first.

13 (EB Exhibit 12 identified.)

14 BY MR. CHERTOFF:

15 Q Exhibit 12 is a letter, December 14th, to  
16 Mr. LaFalce from you. Is that your signature on page  
17 2?

18 A Yes.

19 MR. IVEY: Could I see the exhibit?

20 MR. CHERTOFF: Why don't you give the  
21 witness's copy. Mine is marked up.

22 MR. SILBERT: You want us to give the



1 document --

2 MR. CHERTOFF: Yes, I don't think I have a  
3 free copy.

4 Take my copy.

5 BY MR. CHERTOFF:

6 Q Is that your signature on Exhibit 12?

7 A Yes, sir, it is.

8 Q Is there some reason in this letter you did  
9 not communicate to Congressman LaFalce that you were  
10 recusing, or you had recused yourself from matters  
11 having to do with Capital Management?

12 A As I said earlier, I didn't make a big deal  
13 out of it. I made it clear to everybody who -- who  
14 had an involvement in the SBA that I was withdrawing  
15 from it, that I was I wasn't going to be involved in  
16 handling it. That I wanted to be sure at the same  
17 time we cooperated fully with everybody who was  
18 investigating and we did whatever was the appropriate  
19 thing. And as I said earlier, I signed transmittal  
20 letters after that time, but I don't think I did  
21 anything else.

22 MR. CHERTOFF: I ask that you mark as

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1 Exhibit 13 this document.

2 (EB Exhibit 13 identified.)

3 BY MR. CHERTOFF:

4 Q Exhibit 13 is a letter dated January 18,  
5 1994, to Congressman LaFalce?

6 MR. IVEY: From?

7 MR. CHERTOFF: Mr. Bowles.

8 THE WITNESS: Yes, sir.

9 BY MR. CHERTOFF:

10 Q Is that your signature?

11 A Yes, it is.

12 MR. CHERTOFF: Now, let me direct your  
13 attention to what I am going to mark as Exhibit 14,  
14 for identification.

15 (EB Exhibit 14 identified.)

16 BY MR. CHERTOFF:

17 Q Is Exhibit 14, which is a memo to Martin  
18 Teckler from you dated March 3rd, 1994, your recusal  
19 memo?

20 A Yes, it is.

21 Q Was this memorandum, the writing of this  
22 memorandum prompted by publicity given to the fact

1 that Mr. Altman had recused himself on or about  
2 February 28th, 1994 from handling Whitewater matters,  
3 at the RTC Treasury?

4 A I don't think so. I believe the sole  
5 reason for this, is that I had dinner with John  
6 LaFalce, on I think March the 1st or March the 2nd, I  
7 have to look at my calendar. And he asked me if my  
8 recusal was in writing and it occurred to me to put  
9 it in writing for him. And he didn't tell me to put  
10 it in writing, but I remember leaving there, and I  
11 was with the deputy administrator and told him, said  
12 I was going put it in writing.

13 Q Now, let me direct your attention back to  
14 the time that you were confirmed on May 6 -- well,  
15 May 7, 1993.

16 In the two or three days before your  
17 confirmation, did Mr. Foren consult with you by  
18 telephone about his intention to send to the  
19 Inspector General a referral involving Capital  
20 Management Services?

21 A I simply do not recall.

22 Q Is it your testimony that you don't recall

1 whether or not during May, during the period from May  
2 through September 1993, Mr. Foren went over the  
3 details of this matter with you?

4 A As I said, I remember having the briefing  
5 in mid-May of 1993. I don't know what other  
6 briefings I had after that.

7 Q You don't know whether you had other  
8 briefings or you didn't have other briefings?

9 A I just don't recall, sir.

10 Q And the briefing on May 19, to your  
11 recollection, involved a discussion of the status of  
12 the matter of Capital Management?

13 MR. SILBERT: May 19.

14 BY MR. CHERTOFF:

15 Q Mid-May let's say.

16 A I don't -- I don't remember the date in May  
17 that it was and I told you what I remember from that  
18 meeting. I said I could be collapsing other meetings  
19 that I had had with this one.

20 Q Did Mr. LaFalce tell you in March 1994 that  
21 he anticipated an issue of your recusal was going to  
22 have to be raised in the House?

1 A I don't know, I honestly don't know.

2 Q In the conversation Mr. LaFalce had with  
3 you that prompted you to write your letter, your  
4 memorandum of recusal, did he say members in the  
5 House were raising the question that you should have  
6 recused yourself?

7 A I can remember people -- I don't remember  
8 if it was early in December or January, or the time  
9 period you are talking about, people asking, I  
10 remember people wondering about my recusal, but the  
11 only thing I remember Congressman LaFalce ever asking  
12 me for was my recusal in writing.

13 Q When you sent your written recusal to  
14 Mr. Teckler, what, if anything, did Mr. Teckler say  
15 or do in response?

16 A I don't recall.

17 MR. CHERTOFF: I am going to ask that we  
18 mark for identification as Exhibit 15 the following  
19 document.

20 (EB Exhibit 15 identified.)

21 BY MR. CHERTOFF:

22 Q That's a letter dated April 11th, 1994 to

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1 Jan Meyers, from you. Do you recognize your  
2 signature?

3 A Yes, I do.

4 Q Do you remember the letter?

5 A Yes, I do.

6 Q Were you personally involved in the  
7 preparation of the letter?

8 A As I remember, the draft of this letter was  
9 prepared and I marked it up, yes.

10 Q Do you have a copy of the draft?

11 A No, I do not.

12 Q Do you remember what changes you made in  
13 the draft?

14 A I do not.

15 Q Do you remember in which paragraphs you  
16 made changes?

17 A I do not, sir.

18 Q Were there substantive changes?

19 A I remember I added this letter.

20 Q Now --

21 A I take responsibility for this letter.

22 Q I want to direct your attention to the

1 second paragraph, you say "throughout my tenure as  
2 administrator of the Small Business Administration,"  
3 direct responsibility for the handling of all aspects  
4 of the investigation of and prosecution of any SBIC  
5 or SSBIC suspected of wrongdoing have been delegated  
6 to the career investment division and Office of  
7 General Counsel personnel who normally are involved  
8 in such cases." Did you mean by that statement to  
9 exclude Mr. Spotilia?

10 A No, sir, I don't remember specifically  
11 thinking to exclude Mr. Spotilia.

12 Q Was Mr. Spotilia, to your knowledge,  
13 involved in any aspect of the investigation of the  
14 prosecution of Capital Management?

15 A I don't remember exactly what he  
16 Mr. Spotilia got there, but he was in charge of the  
17 legal department of the SBA. Marty seemed to be the  
18 head guy of this particular matter.

19 Q And you knew when you wrote the letter that  
20 Mr. Spotilia had in fact personally taken the step of  
21 sending the documents over to the White House  
22 relating to Hale and Capital Management?

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1 A Yes, I do.

2 Q Is there some reason you did not indicate  
3 that, that he had had some involvement, in the Hale  
4 matter in this letter?

5 A I don't remember trying to write this in  
6 any kind of context that would make you think one way  
7 or the other on that subject.

8 Q The statement that follows says Capital  
9 Management has been treated in the same manner as all  
10 such other cases." That statement correct?

11 A To the best of my -- my knowledge, we  
12 pursued the prosecution and handling of Capital  
13 Management just like you would any other SSBIC or  
14 SBIC that got in trouble and ran afoul of the SBA  
15 rules and regulations. We left no rock unturned; we  
16 did exactly what we were supposed to and those were  
17 my explicit instructions.

18 Q Were there other cases in which documents  
19 relating to an investigation or SBA audit of a  
20 company had been sent over to the White House?

21 A Not to my knowledge, sir.

22 Q You understood in November of 1993 that



1 allegations involving Capital Management and Mr. Hale  
2 had been leveled that included the President?

3 A When, sir?

4 Q You understood in November of 1993 that  
5 among the allegations touching on Capital Management  
6 and Hale were allegations touching on the President?

7 A Yes, sir.

8 Q You say next "I have never reviewed the  
9 Capital Management file"; is that correct?

10 A Yes, sir.

11 Q Did you mean by that that you had never  
12 physically reviewed it?

13 A I mean I never studied it.

14 Q Did you mean to suggest in that that you  
15 had never been told about what was in the file?

16 A No, sir. I had been briefed about the file  
17 in the amount I think was appropriate for somebody in  
18 my position, but I had not sat down and reviewed the  
19 file.

20 Q You would agree with me, however, that you  
21 had been told about the content of the file?

22 A Those are your words. I agree that I had

1 been briefed to the amount that was appropriate for  
2 somebody in my position.

3 Q Putting to one side the issue of  
4 appropriateness, would you agree with me that you  
5 have received at least one, if not more, briefings  
6 regarding the content of the Capital Management file?

7 A What I -- no.

8 What I agree to is that I was -- I remember  
9 being briefed on May 15th, I remember the discussion  
10 on -- sometime in -- anyway, mid-May, maybe not May  
11 15, sometime in September. And I remember the  
12 November discussion, I have seen these documents that  
13 you say that I received, I may have reviewed those  
14 and I may not have.

15 I can't tell you that. I can't tell you I  
16 got a whole lot of information on this matter and  
17 this information came in at times that I was  
18 particularly busy. Now, did I read it in; maybe I  
19 did and maybe I didn't. I just don't know.

20 Q You would agree with me, would you not,  
21 that the statement is unequivocal and broad in saying  
22 "I have never reviewed the Capital Management file"?

1 A No, sir, I agree the statement says exactly  
2 what I meant for it to say and that is I had not sat  
3 down and studied that file.

4 Q When you approved that statement "I never  
5 reviewed the Capital Management file," did you call  
6 upon anybody else in the SBA to refresh your memory  
7 about what you had been told concerning the content  
8 of that file?

9 A No, sir. I did not.

10 Q Did you draw a distinction in your mind  
11 between reviewing the file in the sense of reading it  
12 and reviewing the file in the sense of being told  
13 what its contents are?

14 MR. SILBERT: Excuse me, he has not agreed  
15 with the suggestion that he was told about the  
16 contents of the file. I don't want --

17 MR. CHERTOFF: Some of the contents.

18 THE WITNESS: No, sir, I told you exactly  
19 what I remembered, exactly. I did not equivocate on  
20 that one iota. I think I -- you know, I don't feel  
21 bad about this at all. I did -- when I sit down and  
22 study a file I really study it. I did not review

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1 this file.

2 BY MR. CHERTOFF:

3 Q Did you meet -- when you used the word  
4 "review," did you mean to use it in a particular  
5 sense of having studied the file?

6 A I meant to use it just exactly as I just  
7 said to you, sir. Exactly.

8 Q Do you stand by the statement "I have never  
9 reviewed the Capital Management file"?

10 A I have never reviewed the Capital  
11 Management file.

12 Q Do you know whether you've -- someone else  
13 who has reviewed it has disclosed some or all of its  
14 contents to you?

15 A I know exactly what I have been telling you  
16 under oath for the last two hours or so. That's what  
17 I know.

18 Q After you left -- withdrawn.

19 After you recused yourself on March 3rd,  
20 and apart from this letter on April 11th, 1994, in  
21 the preparation of the letter --

22 MR. KRAVITZ: I think the testimony was he

1   recused himself in the fall of 1993.

2           MR. CHERTOFF: I'm sorry.

3           BY MR. CHERTOFF:

4           Q   After you entered a written recusal on  
5   March 3rd and apart from the preparation that you did  
6   in connection with the letter of April 11th, did you  
7   have any further contact with anything to do with  
8   Capital Management Services or David Hale after March  
9   3rd?

10          A   Not that I remember.

11          Q   Other than in connection with preparation  
12   of the letter of April 11th, 1994, after March 3rd,  
13   have you ever discussed Capital Management with David  
14   Hale or anybody except your attorney?

15          A   Not that I remember.

16          Q   Did you discuss it with anybody in the  
17   White House after March 3rd?

18          A   Not that I remember.

19          Q   Did you discuss it with anybody in  
20   anticipation of your hearing?

21          A   Not that I --

22          MR. SILBERT: You should exclude anything

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1   that comes from counsel.

2           MR. CHERTOFF: Except counsel, except  
3   Mr. Silbert.

4           THE WITNESS: Not that I remember.

5           Can I ask my counsel a question?

6           MR. CHERTOFF: Sure.

7           MR. SILBERT: We will just step out.

8           MR. CHERTOFF: Sure.

9           (Witness conferred with counsel.)

10          MR. SILBERT: Can the question be read back  
11   to me?

12          MR. CHERTOFF: Sure.

13          (The reporter read the record as requested.)

14          MR. SILBERT: What was it?

15          MR. CHERTOFF: Capital Management or David  
16   Hale.

17          (Witness conferred with counsel.)

18          THE WITNESS: I don't know if this is  
19   called amending or whatever it is, but I did have a  
20   discussion with Ab Mikva, who is a White House  
21   general counsel.

22          BY MR. CHERTOFF:

1 Q When?

2 A A month or so ago.

3 Q Concerning what?

4 MR. SILBERT: You may answer in the  
5 broadest of general terms. If you can do that.  
6 Otherwise, it will be a claim of assertion of  
7 privilege.

8 THE WITNESS: About -- about my lack of  
9 involvement in this whole thing.

10 BY MR. CHERTOFF:

11 Q Were you seeking legal advice from him?

12 A I was going to ask him if I should retain a  
13 lawyer.

14 Q Other than asking him if you should retain  
15 a lawyer and who you should retain, did you have any  
16 other discussion with him in anticipation of this  
17 hearing?

18 A No. I did not. I have occasionally talked  
19 to Jane Sherburne about testifying, but just  
20 testifying.

21 Q When have you talked to Jane Sherburne?

22 A A couple of times in the last couple of

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1 weeks.

2 Q What was the subject matter generally about  
3 those discussions?

4 MR. KRAVITZ: Why are we going into this?

5 MR. CHERTOFF: Because it is not uncommon  
6 when you are deposing somebody to find out who they  
7 talked to about the subject matter of the deposition.

8 MR. SILBERT: My problem is, Mr. Chertoff,  
9 I am concerned about a discussion with White House  
10 counsel and their not being here to assert their  
11 privilege. I am going to be overly cautious with  
12 respect to any testimony of this witness with a  
13 member of the White House counsel's office. I think  
14 I have given you great liberty so far, but beyond  
15 this I am really --

16 MR. CHERTOFF: Let's establish whether  
17 there is even the kind of ground rules for a  
18 privilege.

19 BY MR. CHERTOFF:

20 Q When did you speak to Ms. Sherburne?

21 MR. SILBERT: That's a fair question.

22 THE WITNESS: In the last couple of weeks.



1 BY MR. CHERTOFF:

2 Q And the general subject matter was these  
3 upcoming hearings?

4 A Yes, sir.

5 Q Were you seeking advice from Ms. Sherburne?

6 A I think we were just talking about the  
7 ordeal and she told me --

8 MR. KRAVITZ: Before you go into what she  
9 told you, I don't think this is an attorney-client  
10 privilege that is raised here. You are looking at me  
11 with this bemused look, Mike, but it certainly, for  
12 the last year and a half, has been the practice of  
13 this committee not to be asking witnesses about  
14 conversations that they had in anticipation of  
15 hearings.

16 MR. CHERTOFF: With their own attorneys.

17 MR. KRAVITZ: No, or with lawyers from the  
18 White House counsel's office. And you know there is  
19 an exception for this upcoming set of hearings  
20 relating to alleged use or alleged improper use of  
21 transcripts of Inspector General depositions -- let  
22 me finish -- I don't believe that anyone with a

1 straight face can allege that Mr. Bowles was  
2 discussing with Ms. Sherburne anything that falls  
3 within that exception, to the general rule that we  
4 are not going into any preparations that the White  
5 House counsel's office has made for these hearings.

6 MR. CHERTOFF: I think the general rule is  
7 that while the subject matter, the independent  
8 subject matter or inquiry is not necessarily things  
9 that have occurred in the last few months in White  
10 House counsel's office it is always permissible to  
11 ask a witness whom they've talked to concerning  
12 upcoming testimony except for their own counsel and  
13 you don't need to have that be the subject matter of  
14 the deposition.

15 The most common one of the most common  
16 questions asked in an examination was who have you  
17 spoken to before you came to testify here, except  
18 your own counsel. And I don't think we need to  
19 have -- it is the subject matter of the resolution.

20 MR. KRAVITZ: I recognize that, Mike, but  
21 it has also been recognized for the last year and a  
22 half that conversations White House counsel's lawyers

1 have had with White House witnesses in preparation  
2 for Congressional hearings on these subjects is  
3 privileged material that we are not -- we are not  
4 investigating. And we have carved an exception out  
5 from that general rule for the issue of the White  
6 House counsel's offices use of Inspector General  
7 transcripts. This is not within that exception to  
8 the general rule.

9 MR. CHERTOFF: I strongly disagree. I have  
10 a complete and different understanding of what we  
11 have done. And although we have talked about it in  
12 terms of subpoenaing things, creating certain  
13 limitations, I don't think we have created an  
14 immunity for any discussions with White House  
15 counsel's office in the absence of a privilege. And  
16 I think we've established here, from the witness's  
17 answer, that there is no privilege that he did not --  
18 was not seeking advice.

19 MR. SILBERT: Excuse me for one moment. I  
20 have a difference and I am going to settle this  
21 because I will instruct him not to answer the  
22 questions, but so it is clear, when you are talking

1 about the White House counsels -- privilege of the  
2 White House counsel it is the privilege of the White  
3 House and not that of the witness and whether or not  
4 Mr. Bowles was seeking legal advice is totally  
5 immaterial. And therefore I am suggesting to you if  
6 there is a question that comes up and you want to  
7 explore it further, Mr. Bowles, as I hope you can  
8 tell, wants to cooperate and answer all your  
9 questions, but that's a matter you will have to work  
10 out with White House counsel's office.

11 MR. CHERTOFF: Mr. Silbert, what is the  
12 privilege?

13 MR. SILBERT: It would be the White House  
14 attorney-client privilege, counsel for the White  
15 House.

16 MR. CHERTOFF: The attorney-client  
17 privilege belongs to the client. And the client has  
18 to seek advice. So, based on the witness's answer  
19 that he wasn't seeking advice, he was just discussing  
20 the ordeal, I don't think we have a -- are you  
21 arguing executive privilege, because I agree that is  
22 the White House's privilege?

1 MR. SILBERT: It is not a question in my  
2 view of executive privilege, and I think you  
3 misunderstood my position. It is not a question,  
4 when a company, for example, or an organization, or  
5 any kind of entity asserts the privilege of the  
6 entity, based on conversations between its counsel  
7 and someone working for that entity, the issue is not  
8 whether or not that particular employee was seeking  
9 advice from that counsel's office.

10 That counsel's office may have been seeking  
11 information or discussing matters so it could  
12 determine its position, has nothing to do with  
13 whether or not the employee is seeking advice, as a  
14 consequence the fact that Mr. Bowles, if he were to  
15 say he was not seeking advice, as I said, is  
16 immaterial. And the question is as to whether or not  
17 the counsel, from its perspective, that is, White  
18 House counsel, in this case, has an assertion of  
19 privilege is up to them and not to us.

20 And the reason I am instructing him and the  
21 only reason I am instructing him so as not to  
22 jeopardize that privilege he wants to cooperate, but

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1 he also is an employee of the White House. And it is  
2 a question for you all to discuss, and resolve with  
3 the White House. They say no privilege asserted, he  
4 will answer the question.

5 BY MR. CHERTOFF:

6 Q Let's lay the factual ground rule for  
7 addressing this. The conversation with Ms. Sherburne  
8 was at your request or her request?

9 MR. SILBERT: I will let him answer that  
10 though I think it is immaterial. If he recalls.

11 THE WITNESS: I don't recall. I mean  
12 it's --

13 BY MR. CHERTOFF:

14 Q Where did take place?

15 A We were talking about the process. There  
16 was nothing to it.

17 Q Where did it take place?

18 A I think -- I think one took place in my  
19 office, and I think one took place in the hall.

20 Q What was, in your understanding, the  
21 purpose of the conversation?

22 A To tell me about the process. And not to

1 be nervous.

2 Q And were you seeking some advice from her  
3 about the process?

4 MR. SILBERT: Let me take two minutes to  
5 talk with him. Maybe we can settle it all.

6 MR. CHERTOFF: We can pick it up later.  
7 Mr. Gicale can pick it up afterwards at break. I  
8 don't want to break the flow up other than this last  
9 question on redirect that Mr. Gicale can pick up. I  
10 am basically done.

11 MR. SILBERT: If it is something I can  
12 resolve by a quick discussion with Mr. Bowles, I may  
13 be able to do it. I don't want him to have to come  
14 back for two little questions.

15 MR. GICALE: Maybe you can figure out on  
16 the next break if the White House wants to stand on  
17 this.

18 MR. SILBERT: It may not be an issue.

19 MR. KRAVITZ: Let's take a break now.  
20 Maybe it can be resolved now.

21 (Recess.)

22 EXAMINATION

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1 BY MR. GICALE:

2 Q Mr. Bowles, have you had an opportunity to  
3 talk to your attorney about the conversation you had  
4 with Jane Sherburne from the White House, and after  
5 discussing that conversation with your attorney, do  
6 you have anything further to say with respect to it?

7 A I think basically we talked about, when I  
8 was interrupted earlier, we talked about the process,  
9 and that -- that I was probably going to be deposed  
10 and not to be worried, not to be nervous about it,  
11 and then that -- and today she told me again, you  
12 know, you will do fine. Basically, that was it. I  
13 don't remember anything else of significance.

14 Q When you say "anything else of  
15 significance," do you remember anything else?

16 A I don't remember anything else. I'm  
17 sorry.

18 MR. SILBERT: I was not aware of those  
19 conversations and I did not know what the content was  
20 and that's why we had the exchange with  
21 Mr. Chertoff. I appreciate the opportunity for the  
22 break, so we can clear it up.



1 MR. GICALE: I understand.

2 BY MR. GICALE:

3 Q Now, going back to that point in time in  
4 November when Mr. Spotilia came into your office and  
5 said that he had sent documents over to the White  
6 House, you indicated that after he told you that,  
7 that you suggested to him that he talk to the  
8 Department of Justice about it?

9 MR. SILBERT: Before he answers, I don't  
10 recall Mr. Bowles saying Mr. Spotilia came into his  
11 office.

12 THE WITNESS: I didn't.

13 MR. SILBERT: In fact, his testimony was he  
14 wasn't sure how the conversation came about.

15 THE WITNESS: I may have said it was in my  
16 office.

17 BY MR. GICALE:

18 Q Wherever it was.

19 A I really don't. I thought it was in my  
20 office, but I don't remember what the nature of it  
21 was about. I don't remember, excuse me, what caused  
22 it to happen.

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1 Now what was the question?

2 Q Did Spotilia tell you why -- withdraw  
3 that.

4 Did Mr. Spotilia tell you whether or not  
5 someone from the White House had requested these  
6 documents?

7 A No. All I remember Mr. Spotilia telling me  
8 is that he had already sent some documents to the  
9 White House.

10 Q Do you recall whether or not he told you  
11 that Mr. Eggleston had requested them of him?

12 A No, I don't know. I don't know.

13 Q Did he tell you why he sent the documents  
14 over?

15 A I don't remember him telling me that.

16 Q Did he tell you that someone from the  
17 counsel's office in the White House asked to have  
18 them sent over?

19 A I don't remember him telling me that. All  
20 I remember is him telling me he had already sent  
21 them.

22 Q Do you know whether or not there had been a

1 request to your office, from the White House, to send  
2 those documents over?

3 A All I can tell you is I never got a request.

4 Q Do you know whether or not anyone in your  
5 office, for instance the deputy administrator or  
6 someone else in that office, got a request?

7 A I do not know.

8 Q Do you know whether or not anyone else in  
9 your agency received a request?

10 A I honestly do not know that.

11 MR. GICALE: I have nothing further.

12 MR. BRENNER: I don't have any questions.

13 MR. KRAVITZ: We have no questions.

14 MR. BRENNER: Can we go off the record?  
15 (Discussion off the record.)

16 MR. GICALE: We are done.

17 (Whereupon, at 4:50 p.m., the deposition  
18 was concluded.)

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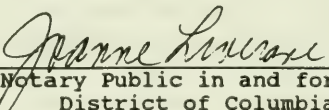
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ERSKINE BOWLES

CERTIFICATE OF NOTARY PUBLIC & REPORTER

112

I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000

DEPONENT 42 ERSKINE BOWLES**ERRATA**

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
15	10-11	"ad managers"	"administration"	Typo
17		Delete "in economic conference"; substitute "at the economic conference"		Context
25	21	"Spotilia"	"Spotila"	Typo
29	9	After "Business" add "Week"		Context
65	5	Delete "did"; substitute "do"		Context
66	3	Delete "General"; substitute "Chamber of Commerce"		Typo
87	11	Delete "him"; substitute "her"		Typo
88	13	"."	"?"	Context
89	12	After "me"; add ":", "for"		Typo
90	19	"added"	"edited"	Typo
94	18	"in"	"them"	Typo
104	1	"counsels"	"counsel's"	Typo
105	13	After "advice" delete the comma; substitute a period. "as" should be "As"		Typo
105	22	After "privilege" insert "." Change "he" to "He"		Typo
106	3	After "White House:" add "If"; Change "They" to "they"		Typo (Context)



DEPONENT -- Erskine Bowles**ERRATA**

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
17	22	in economic conferences	at the Economic Conference	typo error
29	9	Small Business	Small Business Week	"Week" omitted
37	14	at	of	typo error
82	15	that you	you that	typo error
87	11	him	her	typo error
90	19	added	edited	typo error

MONTH  
· AT · A ·  
GLANCE  
· 1993 ·

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
3 <sup>3/162</sup>	4 <sup>4/361</sup>	5 <sup>5/360</sup>	6 <sup>6/159</sup> 10 - Leah Miss - <sup>20110</sup> Gordon for McLoudy
10 <sup>10/175</sup>	11 <sup>11/174</sup>	12 <sup>12/151</sup>	13 <sup>13/152</sup> 8:30 - B. L. L. P. M. L. L.
17 <sup>17/348</sup>  Inaugural	18 <sup>18/347</sup>  MARTIN LUTHER KING, JR. DAY	19 <sup>19/346</sup>	20 <sup>20/345</sup>
24 <sup>24/341</sup>  31 <sup>31/334</sup>	25 <sup>25/340</sup> 10 - <sup>Dan</sup> <u>Gulford</u>  4:30 - Site	26 <sup>26/339</sup>  H - Joane Enos <del>Joane Enos</del>	27 <sup>27/338</sup>  6 - <u>LEVINES</u> <u>6:30 - Unozuki</u> *

JANUARY 1993

THURSDAY

FRIDAY

SATURDAY

2

NEW YEAR'S DAY

7

Atlanta

8

12- Russell  
Cyrus

9

UAC  
1:30- Aunt  
Cynthia  
UAC  
4- Gorge

mmg B'Day

14

J D

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J D

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Gina Angel  
2- England  
C. C. H.

23

28

12-2 Calumet  
5- Lany  
Nelson

29

9:30  
Tracy, Susan  
H. W. S. L. L.  
Robbie Bayard  
2:15- Jim Hunt

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ST  
BARTS

DECEMBER 1992						
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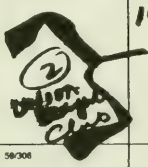
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30	31					

ALWAYS GLANCE



SUNDAY	MONDAY 1 12-111	TUESDAY 2 13-112	WEDNESDAY 3 14-113
7 36-127 <i>Stink</i>	8 19-126  3:30 - Dr Vandervere	9 10-125 <i>10-125 R. L. S. G. L.</i>	10 41-124  5:30 Stonbridge
14 45-120  VALENTINE'S DAY	15 46-119  <i>NY</i> WASHINGTON - LINCOLN DAY	16 47-118 <i>9-118 Turney NY</i>	17 48-117  11:00 - Phys. Ther. 2 - Also Jorg 3:30 - Hospital Fluor Red Room  6:30 Conference
21 53-113 	22 53-112 <i>11-30-112 NY</i> WASHINGTON'S BIRTHDAY	23 54-111  9:40 - Phys. Ther. 11:15 - Chem. Lab. Rm. 12 - EAF HOURS 26086 7m. 5 Easton. 2-11-11 <i>4-11-11</i>	24 55-110  10 - VISIT Wright Dr. Guder  <i>Ed. Shaker</i> ASH WEDNESDAY
28 59-108			

FEBRUARY 1993

THURSDAY

4

17 121

FRIDAY

5

16 129

SATURDAY

6

17 128

1:30 - Andre Preffis UVA

11

12 121

10:10 - Groom

3:00 - Mage  
Shenoy  
Hiro Robinson

CCSS Alumni Dinner

12

11 122

9:19 768-7262

11:00 - Ed Mann  
11:30 - Jim Shuman  
3:00 - Mayo Sheno  
5:22 1462

5:30

Bob Blair

LINCOLN'S BIRTHDAY

13

18 121

18

29 116

10:30 - Mrs. Lidy.

19

30 117

8:30 - Robin  
Rader

2:40 - Phys Ther

20

11 111

25

16 124

11 - Frank  
Craigshell

9:20 - Phys Ther

2 - Maywood  
Felt Moss5:00 - 1st in  
Cotton Org

26

17 124

1:15 - Sec Brnt/Govt cont  
Schile Museum  
Cotton. a

27

18 127

JANUARY 1993

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FEBRUARY 1993

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MARCH 1993

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APRIL 1993

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MAY 1993

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JUNE 1993

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AT-A-GLANCE

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
	1 64/115	2 62/114	3 62/111
	4- Dee Ray Earl Blue (Kushner) Lori 5 Str	10:00A - Frank Skinner <Atlanta> <b>3-CAT</b>	<b>3-CAT</b> (Jim G. 1) 11- Bill Hardcastle D. Hard - Jim C. 914-843-8915 11-45 CINDY
7 66/291	8 67/248	9 68/247	10 69/298
	7:30A CMHA Board  5:00 Debra Foster's Office	7:50 - CHAT Board Sandelopp Board Mtg. 9:00AM 7:30A CMHA Bd	WASH(NTON)
14 73/292	15 74/291	16 75/291	17 76/289
	8 - CMHA Board 12 - Home Call John Paul Green	Annie 12-31-17 3-5 X Annie	Wc 5 up 2- Pete Buck <b>ANNIE</b>
21 80/285	22 81/284	23 82/283	24 83/282
		7:30 - Annie Call 11/5  4 Rick Brooks Burns formal	John Singer WASH.
28 87/278	29 88/277	30 89/276	31 90/275
	Heuman - Phillip 4- Blumenthal @ Radiation Specialty	Johnburn - (C)	

MARCH 1993

THURSDAY

4

61/102

Pamela

Dante

Honey

Dinner

11

70/295

Bert Arnfield

18

77/288

WASHINGTON

25

84/281

WASH

FRIDAY

5

61/101

7:30 CCR

NUTRITION

12

71/211

11-

Thomas Pearson

542 3570 - CL. 1st Hall

12-

Mike Peters

Ran McKinley

19

78/287

10 - Kella Sachanmiller

First Union

12 - Tom Temple

404 - 842 - 4302

2 - Bob Lamm

2 - Bob Lamm

26

85/280

10 - Lee Williams

11 - Bill Seaman

Duke n 85

919 - 216 - 6600

C

SATURDAY

6

61/100

13

72/251

20

79/286

27

89/279

FEBRUARY

1993

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MARCH

1993

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1993

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1993

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JULY

1993

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AT-A-GLANCE®



SUNDAY	MONDAY	TUESDAY	WEDNESDAY
<p>4 91/271</p> <p>PALM SUNDAY DAYLIGHT SAVING TIME begins</p>	<p>5 91/270</p> <p>8:15 - <i>pr</i> <i>Chorus</i></p> <p>10:00 - 2:00 <i>Kitty Hawk</i> <i>Annual mtg.</i></p> <p>PASSOVER begins at sundown</p>	<p>6 96/269</p> <p>PASSOVER</p>	<p>7 97/268</p>
<p>11 101/264</p> <p>EASTER SUNDAY</p>	<p>12 102/261</p> <p>1:30 - <i>Karen Sachse</i> 2:30 - <i>Peter Buck / Bob</i> <i>Bradshaw</i></p> <p><i>John</i> <i>Ger</i> <i>Ver</i> <i>U</i></p>	<p>13 103/262</p>	<p>14 104/261</p>
<p>18 108/257</p>	<p>19 109/256</p> <p>11 - <i>Jim Turner</i> 333-8415 <i>National</i> <i>1 - Larry</i> <i>Shaw</i></p> <p>3:15 - <i>Dr. Maxson</i> <i>(eye doctor)</i></p>	<p>20 110/255</p>	<p>21 111/254</p> <p>PROFESSIONAL SECRETARIES DAY®</p>
<p>25 115/240</p>	<p>26 116/239</p> <p>9:00 - <i>John</i></p> <p>10:30 - <i>Wellness Hyl</i></p>	<p>27 117/248</p>	<p>28 118/247</p> <p>10:00 <i>fun</i></p>

APRIL 1993

THURSDAY

1

91 274

JDF-  
NY

FRIDAY

2

92 274

JDF-  
NY

SATURDAY

3

93 272

JDF  
WALK-A-TION

MARCH

1993

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8

98 267

1-2 NASIRU  
NY

9

99 266

Holiday

GOOD FRIDAY

10

100 265

APRIL

1993

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15

105 260

7:30 Cheryl Chase  
Uncle Gillette

16

106 259

Anna  
flowers

17

107 258

MAY

1993

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22

112 251

23

113 250

150011+ NASBIC

100 - On a note 970-8070 to schedule  
2-30 Jim Turner - Abbot & Walters  
223-5495 cancelled

24

114 251

JULY

1993

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1993

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119 246

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120 245

ALANGLANCE

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
2 <sup>122/211</sup>	3 <sup>121/242</sup> 9.45- Dr Marvin (Lg. DR) 11.30- Leah	4 <sup>120/211</sup>	5 <sup>125/240</sup> <i>Confidential</i>
9 <sup>129/216</sup>  MOTHER'S DAY	10 <sup>130/215</sup>	11 <sup>131/214</sup> 10-11:30- RSC Came	12 <sup>132/213</sup>
16 <sup>136/229</sup>	17 <sup>137/228</sup> <i>Mr. Ghoro Jim Hunt</i>	18 <sup>138/227</sup>	19 <sup>139/226</sup> 3 30- CHIA Finance
23 <sup>143/222</sup> UNCP	24 <sup>141/221</sup> <i>John</i> VICTORIA DAY (CANADA)	25 <sup>145/220</sup>	26 <sup>146/219</sup>
30 <sup>150/215</sup> MEMORIAL DAY	31 <sup>151/214</sup> <i>Holiday</i> MEMORIAL DAY (OBSERVED)		

MAY 1993

THURSDAY	FRIDAY	SATURDAY
		1 <sup>121 211</sup>
6 <sup>126 219</sup>	7 <sup>127 218</sup>	8 <sup>128 217</sup>
13 <sup>131 212</sup>	14 <sup>132 211</sup>	15 <sup>133 210</sup>
20 <sup>139 225</sup>	21 <sup>141 224</sup>	22 <sup>142 223</sup>
	JDF Bd Mtg	
JNR	Armed Forces Day	
27 <sup>147 218</sup>	28 <sup>148 217</sup>	29 <sup>149 216</sup>

APRIL 1993						
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MAY 1993						
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JUNE 1993						
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AUGUST 1993						
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AT-A-GLANCE®



SUNDAY	MONDAY	TUESDAY	WEDNESDAY
		1 152/211 8AM BUS Dev. Staff	2 151/212  7:30 Barbara Elum
6 157/208	7 158/207 8:15 American Bankers Assn Leon 11:30 - Penalties 7 - Natural History	8 159/206 11- Ron Brown 1- Elizabeth Cook	9 160/205 Ten Lays 10 - Sonora Hg Committee 2- M & C Roosevelt Am
13 161/201	14 162/200  FLAG DAY	15 163/199	16 164/198
20 171/194  FATHER'S DAY	21 172/193 Mark Merit	22 173/192	23 174/191  V.D.
27 179/187	28 179/186	29 180/185 10:30 Annual Honor Awards	30 181/184  ←

JUNE 1993

THURSDAY

3

154-211

8:45 SCORE  
Edg Dir

FRIDAY

4

155-210

SATURDAY

5

156-209

10

161-204

10AM Testify  
Small Business

11

162-203

12

163-202

17

160-197

Govs. Conf. on  
Small Business  
Kentucky

18

160-196

10AM MEETING  
Small Business

19

170-195

24

175-190

District Directors Meeting →  
Small Business (OUTREACH)

25

176-189

26

177-188

MAY 1993						
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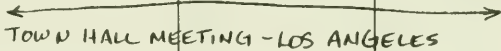
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AT-A-GLANCE®

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
4 185-180  INDEPENDENCE DAY	5 186-179 <del>Holiday</del>	6 187-178	7 188-177
11 192-173	12 193-172	13 194-171	14 195-170
18 199-166	19 200-165 1:30 - PANETTA 6:00 - TRILSON	20 201-164 1:00 - HEARING 7:30 - DINNER w/ JOHN EMERSON & ARTHUR LEVITT	21 202-163 WHITE HOUSE EVENT / LUNCH 9:00 - 2:00 7:00 - BRODY / BARNES
25 206-159	26 207-158	27 208-157	28 209-156 10:00 - FUNB
 TOWN HALL MEETING - LOS ANGELES			

JULY 1993

THURSDAY  
1 182 181FRIDAY  
2 183 182SATURDAY  
3 183 181

CANADA DAY (CANADAM)

8 189 176

9 190 175

10 191 174

15 196 169

16 197 168

17 198 167

ST. LOUIS -  
DISASTER  
MEETING

← TOWN HALL MEETING - HARTFORD →

22 203 162

23 203 161

24 205 160

NAFTA EVENT  
10-1130  
2-330 HEARING  
400 CALDERON/  
Quinnes MtgIRM CONFERENCE -  
10-1130  
VIDEOTAPING  
2-300  
INTERVIEW TS CHUNG  
300

29 210 155

30 211 154

31 212 153

7(2) HEARING  
PREP TIME

JUNE 1993						
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AUGUST 1993						
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OCTOBER 1993						
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ALPHA GLANCE®



SUNDAY 1 213-152	MONDAY 2 214-151	TUESDAY 3 215-150	WEDNESDAY 4 216-149
	←	VACATION	
8 220-145	9 221-144 SECONDARY MARKET MTG - ALL DAY	10 222-143 BDEVENT	11 221-142 BD EVENT
15 227-138	16 226-137 TRANSITION '93	17 225-136	18 224-135
22 234-131	23 235-130 /	24 236-129	25 237-128 3 30 - CMHA Finance
29 241-124	30 242-123	31 243-122	

← TOWN HALL MEETING  
DES MOINES →

AUGUST 1993

THURSDAY  
5 Z17 118FRIDAY  
6 Z18 117SATURDAY  
7 Z19 11612 Z21 11113 Z22 11014 Z23 10919 Z31 11120 Z32 11121 Z33 112WORK DAY -  
ALL DAY26 Z36 12727 Z37 12628 Z38 125~~CHUCK~~  
FOLGER

JULY 1993						
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AUGUST 1993						
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SEPTEMBER 1993						
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OCTOBER 1993						
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NOVEMBER 1993						
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SUNDAY	MONDAY	TUESDAY	WEDNESDAY
			1 <sup>240/121</sup>
5 <sup>218/117</sup>	6 <sup>219/116</sup> Holiday  LABOR DAY	7 <sup>250/115</sup> NPR. WH Health Care B A-Stage	8 <sup>251/114</sup> WH - LUNEL COLORADO
12 <sup>275/110</sup>	13 <sup>276/109</sup> MEXICO TH	14 <sup>257/108</sup> NAFTA WH DPS & PAs Reorganize	15 <sup>258/107</sup> Hispanic Spec ROSH HASHANAH begins at sundown
19 <sup>262/101</sup>	20 <sup>263/102</sup> Hiroshima a Workshop	21 <sup>264/101</sup> Health Care Problems Complex GA Pgs 24	22 <sup>265/100</sup> F.A. Jesimay Prosocial Health Care
26 <sup>269/96</sup>	27 <sup>270/95</sup>	28 <sup>271/94</sup>	29 <sup>272/93</sup> F. 11-1-95

## SEPTEMBER 1993

<p>THURSDAY 2 253110</p>	<p>FRIDAY 3 253119</p>	<p>SATURDAY 4 253118</p>
<p>9 253117</p> <p><i>LOWRADO</i></p>	<p>10 253112</p> <p><i>See Sp...</i></p>	<p>11 253111</p>
<p>16 253106</p> <p><i>5:30 - * *</i></p> <p><i>WH - Shael</i></p> <p><i>13 DAY</i></p> <p><i>Hydroxide Case</i></p> <p><i>* ROSH HANANAH</i></p>	<p>17 253105</p> <p><i>M - Jrap</i></p> <p><i>3 - Spawners - over</i></p> <p><i>QITCC</i></p>	<p>18 253101</p> <p><i>Health Care Training</i></p> <p><i>Gave Cup</i></p>
<p>23 253100</p> <p><i>1st row of MORRIS Shas</i></p> <p><i>NY - Hispanic</i></p> <p><i>Spoke</i></p>	<p>24 253104</p> <p><i>helly Br...</i></p> <p><i>VOM KIPPER begins at sundown</i></p>	<p>25 253107</p> <p><i>HELLY</i></p> <p><i>VOM KIPPER</i></p>
<p>30 253102</p> <p><i>Puffed</i></p>	<p><i>Puffed</i></p>	

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NOVEMBER					1993	
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	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER					1993	
S	M	T	W	T	F	S
5	6	7	1	2	3	4
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

JANUARY						1994
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					



SUNDAY	MONDAY	TUESDAY	WEDNESDAY
3 276-88	4 277-88	5 278-87 <i>Minority speech (colored people)</i>	6 279-86 <i>MSU with white House Herald Center</i>
10 283-82	11 284-81 <del>COLUMBUS DAY (OBSERVED) THANKSGIVING DAY (CANADA)</del>	12 285-80 <i>UNC</i> COLUMBUS DAY	13 286-79 <i>Houston</i>
17 290-75	18 291-74 <i>Kentucky - SBOC</i> <i>WTH</i>	19 292-73 <i>Canada</i> <del><i>Forgettable</i></del>	20 293-72 <i>National Minority Development Council</i> <i>Florida</i>
24 297-68 <i>Bel</i> UNITED NATIONS DAY 31 304-61 HALLOWEEN DAYLIGHT SAVING TIME ends	25 298-67 <i>NC VP</i>	26 299-66 <i>Venture Spec of Baltimore</i>	27 300-65 <i>8:30 Home Dinner</i>

OCTOBER 1993

THURSDAY	FRIDAY	SATURDAY
	1 <i>(1) 11:00</i>	2
7 <i>Bowling</i>	8 <i>Cleveland</i>	9
14 <i>(Houston)</i>	15	16 <i>(CS)</i>
21 <i>(WH)</i> <i>MAINE</i>	22	23
28 <i>10 - House</i> <i>15-15</i> <i>Comm</i>	29	30

SEPTEMBER 1993

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER 1993

S	M	T	W	T	F	S
						1
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER 1993

S	M	T	W	T	F	S
		1	2	3	4	5
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER 1993

S	M	T	W	T	F	S
				1	2	3
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

JANUARY 1994

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY 1994

S	M	T	W	T	F	S
				1	2	3
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

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<div>153</div> <div>SUNDAY</div>	<div>MONDAY</div> <div>1</div> <div>10/5/40</div>	<div>TUESDAY</div> <div>2</div> <div>10/6/40</div> <div>(Arkinson)</div> <div>ELECTION DAY</div>	<div>WEDNESDAY</div> <div>3</div> <div>10/7/40</div> <div>(Sun)</div> <div>Deane</div>
<div>7</div> <div>11/1/41</div>	<div>8</div> <div>11/2/41</div> <div>Des Moines</div>	<div>9</div> <div>11/3/41</div> <div>Des Moines</div>	<div>10</div> <div>11/4/41</div> <div>Fayetteville</div>
<div>14</div> <div>11/6/41</div>	<div>15</div> <div>11/9/46</div> <div>Billings</div>	<div>16</div> <div>12/9/45</div>	<div>17</div> <div>12/14/44</div> <div>Chesaw</div>
<div>21</div> <div>12/1/40</div>	<div>22</div> <div>12/6/39</div>	<div>23</div> <div>12/7/38</div> <div>(New)</div>	<div>24</div> <div>12/8/37</div> <div>Home</div>
<div>28</div> <div>11/2/43</div>	<div>29</div> <div>11/3/42</div>	<div>30</div> <div>11/4/41</div>	

NOVEMBER 1993

THURSDAY  
4FRIDAY  
5SATURDAY  
6

OCTOBER 1993						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER 1993						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

DECEMBER 1993						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JANUARY 1994						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY 1994						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

MARCH 1994						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

11

12

13

WABIC  
Florida

VETERANS DAY  
- REMEMBRANCE DAY  
(CANADA)

18

19

20

25

26

27

Holiday

Holiday

THANKSGIVING DAY

ALWAYS



SUNDAY	MONDAY	TUESDAY	WEDNESDAY
			1 <sup>115 00</sup>
5 <sup>119 26</sup>	6 <sup>110 25</sup>	7 <sup>111 24</sup>	8 <sup>112 23</sup>
			HANUKKAH begins at sundown
12 <sup>116 19</sup>	13 <sup>117 18</sup>	14 <sup>118 17</sup> <i>7:30a CHHA Bond</i>	15 <sup>119 16</sup>
19 <sup>123 12</sup>	20 <sup>124 11</sup>	21 <sup>125 10</sup>	22 <sup>126 9</sup>
26 <sup>130 5</sup>	27 <sup>131 1</sup> <i>Holiday</i>	28 <sup>132 1</sup>	29 <sup>133 2</sup>
BOXING DAY (CANADA)			

## DECEMBER 1993

**THURSDAY**  
**2**  
110-21

**FRIDAY**  
**3**  
112-20

**SATURDAY**  
**4**  
110-27

**9**  
111-22  
10 - foundation  
eccos

**10**  
111-11

**11**  
111-20

HANUKKAH

**16**  
110-17

**17**  
111-11

**18**  
112-10

**23**  
112-18

**24**  
110-7

**25**  
110-16

**30**  
110-11

**31**  
110-10

CHRISTMAS DAY

**NOVEMBER 1993**

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

**DECEMBER 1993**

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

**JANUARY 1994**

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

**FEBRUARY 1994**

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

**MARCH 1994**

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

**APRIL 1994**

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

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United  
States  
Government  
APPOINTMENT  
BOOK

1993

EB Exhibit 2  
For ID  
SA 10-31-95

NSN 7530-01-233-2436

For 1994 order 7530-01-233-7484



EB Fax: (202) 232-2862

**28** Week Beginning  
June

May	1993	June	1993	July	1993
SMTWTFSS	SMTWTFSS	SMTWTFSS	SMTWTFSS	SMTWTFSS	SMTWTFSS
2 3 4 5 6 7 8	1 2 3 4 5	6 7 8 9 10 11 12	1 2 3 4 5	4 5 6 7 8 9 10	1 2 3
9 10 11 12 13 14 15	13 14 15 16 17 18 19	20 21 22 23 24 25 26	18 19 20 21 22 23 24	25 26 27 28 29 30 31	
16 17 18 19 20 21 22	27 28 29 30				
23 24 25 26 27 28 29					
30 31					

MONDAY, JUNE 28	179	TUESDAY, JUNE 29	180	WEDNESDAY, JUNE 30	181
7		7		7	
7:15		7:15		7:15	
7:30 Mark F. ... e Mayflower		7:30		7:30 Gilles - Brkfst.	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9 PSA - DEOB		9 NEFB w/ Pres. C.		9 Mays. Board Mtg.	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10 NEFB e Warner T.		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12 French Visit		12 Office / Phone Time		12 Lunch w/ Cong. Zeliff	
12:15		12:15		12:15	
12:30 Mtg. w/ J. Whitmore		12:30		12:30	
12:45		12:45		12:45	
1 Pat Burr - Interview		1 Mtg. w/ J. Quinn - DEOB		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15 Terri Dial - Mtg.		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4 Gil Goldberg - Interview		4 Robert Dornbush - Intrv		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6 Mtg. w/ Jay		6 Mtg. w/ JW, MT, CH, BM, GJ		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30 DNC Pres. Dinner		7:30		7:30	
7:45		7:45		7:45	

Week Ending  
July

4

August 1993	September 1993	October 1993
SMTWTFSS	SMTWTFSS	SMTWTFSS
1 2 3 4 5 6 7	1 2 3 4	1 2
8 9 10 11 12 13 14	5 6 7 8 9 10 11	3 4 5 6 7 8 9
15 16 17 18 19 20 21	12 13 14 15 16 17 18	10 11 12 13 14 15 16
22 23 24 25 26 27 28	19 20 21 22 23 24 25	17 18 19 20 21 22 23
29 30 31	26 27 28 29 30	24 25 26 27 28 29 30
		31

THURSDAY, JULY 1	182	FRIDAY, JULY 2	183	SATURDAY, JULY 3	184
7		7 Out of Office		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45 COS Mtg.		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30 NEC Mtg. C.W. H.		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10 Mtg w/ Alexis Herman		10		10	
10:15		10:15		10:15	
10:30		10:30 Phone Interview w/		10:30	
10:45		M. Quinn		10:45	
11 Depart w. House		11		11	
11:15 Arrive SBA		11:15		11:15	
11:30 Interview w/ Audrey B.		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1 Mtg. w/ J. Santiago		1		1	
1:15		1:15		1:15	
1:30 Office / Phone Time		1:30		1:30	
1:45		1:45		1:45	
2 Mtg. w/ Liz Hopevell		2		2	
2:15 LAMA		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3 Mtg. w/ CS, DO, DW (re: labor)		3		3	
3:15		3:15		3:15	
3:30 Lv. for Reid's Office		3:30		3:30	
3:45		3:45		3:45	
4 Nevada Delay. 320 Hart		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, JULY 4 INDEPENDENCE DAY	185
5:15 Office / Phone Time		5:15			
5:30		5:30			
5:45		5:45			
6 Mtg. w/ Mary Leslie		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 5 Week Beginning July

June	1993	July	1993	August	1993
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5	1 2 3	1 2 3	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7
6 7 8 9 10 11 12	4 5 6 7 8 9 10	4 5 6 7 8 9 10	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14
13 14 15 16 17 18 19	11 12 13 14 15 16 17	11 12 13 14 15 16 17	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21
20 21 22 23 24 25 26	18 19 20 21 22 23 24	18 19 20 21 22 23 24	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28
27 28 29 30	25 26 27 28 29 30 31	25 26 27 28 29 30 31	29 30 31	29 30 31	29 30 31

## HOLIDAY

MONDAY, JULY 5	186	TUESDAY, JULY 6	187	WEDNESDAY, JULY 7	188
7:00 Out of Office	7	7:15	7	7:15	
7:15		7:30		7:30	
7:30		7:45 Cos Mtg.		7:45	
7:45		8:00 Policy Board Mtg.		8:00 CDS Mtg.	
8:00		8:15		8:15	
8:15		8:30		8:30 Sec. Mtg.	
8:30		8:45		8:45	
8:45		9:00		9:00	
9:00		9:15		9:15	
9:15		9:30		9:30	
9:30		9:45		9:45	
9:45		10:00 Mtg. w/ Dr. Haddock		10:00 Sec. Mtg.	
10:00		10:15		10:15	
10:15		10:30 Craig Kirby		10:30	
10:30		10:45		10:45	
10:45		11:00 Office / Phone Time		11:00	
11:00		11:15		11:15	
11:15		11:30		11:30	
11:30		11:45		11:45 Lv. for LAMA Event	
11:45		12:00 Fin. Staff, Control Mtg.		12:00 LAMA	
12:00		12:15		12:15	
12:15		12:30		12:30	
12:30		12:45		12:45	
12:45		1:00 Margaret Chao - Intrv.		1:00	
1:00		1:15		1:15	
1:15		1:30		1:30 Sec. Mtg.	
1:30		1:45		1:45	
1:45		2:00		2:00	
2:00		2:15		2:15	
2:15		2:30		2:30	
2:30		2:45		2:45	
2:45		3:00 Tate DeWitt - Intrv.		3:00 Sec. Mtg.	
3:00		3:15 609 - 314. 3020		3:15	
3:15		3:30		3:30	
3:30		3:45		3:45	
3:45		4:00		4:00	
4:00		4:15		4:15	
4:15		4:30		4:30	
4:30		4:45		4:45	
4:45		5:00		5:00 Mtg. w/ J. Satagaj	
5:00		5:15		5:15	
5:15		5:30		5:30 O.R.O. - Paul Diamond	
5:30		5:45		5:45	
5:45		6:00 Mtg. w/ Jay Rense		6:00	
6:00		6:15		6:15	
6:15		6:30		6:30	
6:30		6:45		6:45	
6:45		7:00 Wise Public Radio		7:00	
7:00		7:15		7:15	
7:15		7:30		7:30	
7:30		7:45		7:45	

September 1993	October 1993	November 1993	Week Ending July 11
SMTWTFSS	SMTWTFSS	SMTWTFSS	
1 2 3 4	3 4 5 6 7 8 9	1 2 3 4 5 6	EB Fax: 704/24-0237
5 6 7 8 9 10 11	10 11 12 13 14 15 16	7 8 9 10 11 12 13	
12 13 14 15 16 17 18	17 18 19 20 21 22 23	14 15 16 17 18 19 20	
19 20 21 22 23 24 25	24 25 26 27 28 29 30	21 22 23 24 25 26 27	
26 27 28 29 30	31	28 29 30	

202/232-2862

THURSDAY, JULY 8	189	FRIDAY, JULY 9	190	SATURDAY, JULY 10	191
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45	COS Mtg.	7:45		7:45	
8		8		8	
8:15	SELK Mtg. @ Sparkletic	8:15		8:15	
8:30	Wash. Vicks 6:30 8:50	8:30		8:30	
8:45	1400 M. St. NW	8:45		8:45	
9		9		9	
9:15	School Mtg.	9:15	Management Board Mtg.	9:15	
9:30		9:30	Mtg. w/ L.	9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15	Steve Miller - Money Mag.	10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11	NAM	11		11	
11:15		11:15		11:15	
11:30	Mtg. w/ Halcomb Green	11:30		11:30	
11:45		11:45		11:45	
12	Mtg. w/ Jan Wolfe, P. M.	12	Peter Yu - 456 2802	12	
12:15		12:15		12:15	
12:30	Glennie Guinny (Macy A)	12:30		12:30	
12:45		12:45		12:45	
1	Money Store Magazine	1	NPR - Mtg.	1	
1:15		1:15		1:15	
1:30	More Intro. (Home Off Comm)	1:30		1:30	
1:45		1:45		1:45	
2	Steve Lussini Mtg.	2		2	
2:15		2:15		2:15	
2:30		2:30	BA Hearing Prep	2:30	
2:45		2:45		2:45	
3	Mtg. w/ F. Newman &	3		3	
3:15	Charles Alley & Son 2312	3:15		3:15	
3:30	Pat C. Treasury	3:30		3:30	
3:45	622-2800 15th & Penn	3:45		3:45	
4		4	Conference Call	4	
4:15		4:15	Gene Spurling	4:15	
4:30	Mtg. w/ J.W. & WF (SBIS)	4:30	Pat C 456 2174	4:30	
4:45		4:45		4:45	
5	Scan Sparking Off with P. J.	5	Office Phone	5	
5:15	456 2174	5:15	A...	5:15	
5:30	Tax. Policy - Sam. B...	5:30		5:30	
5:45		5:45		5:45	
6	Mtg. w/ Mary Leslie	6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

SUNDAY, JULY 11

192



# 12 Week Beginning July

June 1993	July 1993	August 1993
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5	1 2 3	1 2 3 4 5 6 7
6 7 8 9 10 11 12	4 5 6 7 8 9 10	8 9 10 11 12 13 14
13 14 15 16 17 18 19	11 12 13 14 15 16 17	15 16 17 18 19 20 21
20 21 22 23 24 25 26	18 19 20 21 22 23 24	22 23 24 25 26 27 28
27 28 29 30	25 26 27 28 29 30 31	29 30 31

MONDAY, JULY 12 193	TUESDAY, JULY 13 194	WEDNESDAY, JULY 14 195
7 Breakfast w/ Milt Stewart 7:15 J. Ann S. Wash. Chit. Hl. Hl. 7:30 7:45	7 7:15 7:30 7:45 COS Mtg.	7 Bk. P. M. B. J. T. Berger 7:15 University of 7:30 1103 1st St. NW 7:45 419-1000
8 COS Mtg. 8:15 8:30 8:45	8 Policy Bk. Mtg. 8:15 8:30 8:45	8 COS Mtg. 8:15 8:30 Mtg. w/ Sen. Proch 8:45
9 Mtg. w/ Rodney Taylor re: Ed. Lowe 9:15 9:30 w/ Mark Schnarr 9:45	9 LV for NY - Money Mtg. 9:15 U 9:30 1271 9:45 Times	9 Mtg. w/ Carl Perry Ches. Bank Assoc. Mtg. 9:15 9:30 9:45
10 Elaine Cobell - Intv. NT 10:15 10:30 10:45 11 11:15 11:30 11:45	10 10:15 10:30 10:45 11 11:15 11:30 H.R. 11:45	10 10:15 10:30 10:45 11 11:15 11:30 11:45
12 Mtg. w/ ML & DIT Dir. 12:15 12:30 12:45	12 Money's Lunch 12:15 1271 Club on 12:30 2nd Flr. 12:45	12 12:15 12:30 Mtg. w/ John W. Hines 12:45
1 Berdine Higgenbotham DC Intv. 1:15 1:30 1:45	1 1:15 1:30 1:45	1 J. Ann S. Hl. Hl. (A) 1:15 1:30 1:45
2 Mtg. NAC 248 2:15 Peter Yu 2:30 Gates 248-2 2:45	2 2:15 2:30 2:45	2 2:15 2:30 2:45
3 Mtg. w/ ML & DW DF re: Train Hall 3:15 3:30 3:45	3 Arrive SBA 3:15 3:30 3:45	3 Hl. Hl. 3:15 3:30 3:45
4 Conference Call Gene Sperling 4:15 4:30 4:45	4 Mtg. w/ Milt Stewart BC ML (AEI) 4:15 4:30 4:45	4 Mtg. w/ Jim Mayor Bivens Corp 4:15 4:30 4:45
5 5:15 5:30 5:45	5 Mtg. J. W. & B. M. H. re: TRP 5:15 5:30 Joshua Smith Mtg. 5:45	5 Mtg. w/ J. W. H. re: TRP 5:15 5:30 Scheduling Mtg. 5:45
6 Mtg. w/ Jay 6:15 6:30 6:45	6 Mtg. w/ M. Leslie 6:15 6:30 6:45	6 6:15 6:30 Dinner w/ Arthur 6:45 M. H. Kantor
7 7:15 7:30 7:45	7 7:15 7:30 Budget/Booked Bank 7:45	7 7:15 7:30 7:45

September 1993	October 1993	November 1993
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4	1 2	1 2 3 4 5 6
5 6 7 8 9 10 11	3 4 5 6 7 8 9	7 8 9 10 11 12 13
12 13 14 15 16 17 18	10 11 12 13 14 15 16	14 15 16 17 18 19 20
19 20 21 22 23 24 25	17 18 19 20 21 22 23	21 22 23 24 25 26 27
26 27 28 29 30	24 25 26 27 28 29 30	28 29 30
	31	

Week Ending **18**  
July

THURSDAY, JULY 15	196	FRIDAY, JULY 16	197	SATURDAY, JULY 17	198
7: Town Hall Mtg.		7: Town Hall Mtg.		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, JULY 18	199
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 19 Week Beginning July

June 1993	July 1993	August 1993
SMTWTFSS	SMTWTFSS	SMTWTFSS
1 2 3 4 5	1 2 3	1 2 3 4 5 6 7
6 7 8 9 10 11 12	4 5 6 7 8 9 10	8 9 10 11 12 13 14
13 14 15 16 17 18 19	11 12 13 14 15 16 17	15 16 17 18 19 20 21
20 21 22 23 24 25 26	18 19 20 21 22 23 24	22 23 24 25 26 27 28
27 28 29 30	25 26 27 28 29 30 31	29 30 31

MONDAY, JULY 19	200	TUESDAY, JULY 20	201	WEDNESDAY, JULY 21	202
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45 <del>GOS Mtg.</del>		7:45	
8 <del>GOS Mtg.</del>		8 Policy Board Mtg.		8 <del>GOS Mtg.</del>	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45 Prep for Event	
9 Mtg. w/ Mr. (Sprint)		9 Mtg. w/ Dr. Haavard		9 White House Event	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11 Mtg. w/ Kris Swedin		11		11	
11:15		11:15		11:15	
11:30	Prep Time	11:30		11:30	
11:45	Mini Attn. & SA	11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1 Mtg. w/ OMB Director		1 HSBC Hearing 2351 Rayburn		1	
1:15		1:15		1:15	
1:30	ER - Edgar People	1:30	Re: Mini Attn. & SA	1:30	
1:45	ER/305 4940	1:45		1:45	
2	OMB Sc. Side	2		2 Press Conference	
2:15	Rm 249	2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3 Prep Time - Pres. Event		3 Regional Press Conf.	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4 Mtg. w/ Tom Parnell		4		4 Prep Time - Kris Swedin	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15 office Phone Time	
5:30		5:30		5:30	
5:45		5:45		5:45	
6 Mtg. w/ Mary CDB		6 Mtg. w/ Mr. Hestie		6	
6:15	Mary Connor	6:15		6:15	
6:30	622-2800	6:30		6:30	
6:45	w/ Ed Cleveland	6:45		6:45	
7	Dayton Watkins	7 Dinner w/ John Emerson		7 Bridge/Andrews Bank	
7:15		7:15 & Andrew Lewis (SEC)		7:15	
7:30		7:30 Contact: Dana Hansen		7:30 Rtn: 546-8144	
7:45		7:45		7:45	

Week Ending  
July 25

September 1993	October 1993	November 1993
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4	1 2	1 2 3 4 5 6
5 6 7 8 9 10 11	3 4 5 6 7 8 9	7 8 9 10 11 12 13
12 13 14 15 16 17 18	10 11 12 13 14 15 16	14 15 16 17 18 19 20
19 20 21 22 23 24 25	17 18 19 20 21 22 23	21 22 23 24 25 26 27
26 27 28 29 30	24 25 26 27 28 29 30	28 29 30
	31	

THURSDAY, JULY 22	203	FRIDAY, JULY 23	204	SATURDAY, JULY 24	205
7		7		7	
7:15		7:15 Work Day		7:15	
7:30		7:30 EEO & Op/Cong		7:30	
7:45	COS	7:45 Greg Robinson		7:45	
8	Policy Bd.	8 COS Mtg		8	
8:15		8:15		8:15	
8:30		8:30 intru w/ H. 431 7111		8:30	
8:45		8:45		8:45	
9		9 Manag. Board Mtg		9	
9:15		9:15		9:15	
9:30		9:30 Mtg w/ CEOs - South Atlantic		9:30	
9:45		9:45		9:45	
10		10 6th Annual IRM Conf		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11 Mtg w/ Ken Bridg, ML		11	
11:15		11:15		11:15	
11:30		11:30 mtg. SIVV		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30	Phone Interview - Mr. Reems	12:30		12:30	
12:45	Reems/Katzen	12:45		12:45	
1	Mtg. w/ Kate McKee	1 LA Town Hall Briefing		1	
1:15	(919) 683-3016	1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2	Hearing w/ Sen Bumpers	2 P-T Video Taping		2	
2:15	Russell: 428 A	2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3 Mtg. w/ John Mackenzie		3	
3:15		3:15		3:15	
3:30		3:30 Mtg. w/ Bill Combs - NPR		3:30	
3:45		3:45		3:45	
4	Mtg. w/ Alejandro Caldarón	4		4	
4:15	& L. Guinmez	4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5	Mtg. w/ Dr. Hochler	5 Mtg. w/ Mary Ann Foster		SUNDAY, JULY 25	206
5:15		5:15 Mtg. w/ Will Cuthman			
5:30	Mtg. w/ Robert Shilman	5:30			
5:45	(202) 811-9467	5:45			
6	Mtg. w/ M. Leslie	6			
6:15	(Mtg. w/ Rob Stel)	6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			



# 26 Week Beginning July

June	1993	July	1993	August	1993
SMTWTFSS	12345	SMTWTFSS	123	SMTWTFSS	1234567
6789101112		45678910		891011121314	
13141516171819		11121314151617		15161718192021	
20212223242526		18192021222324		22232425262728	
27282930		25262728293031		293031	

MONDAY, JULY 26	207	TUESDAY, JULY 27	208	WEDNESDAY, JULY 28	209
7 Town Hall		7 Town Hall		7 Town Hall	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45 Cos Mtg.		7:45	
8 Cos Mtg.		8 Policy Board Mtg.		8 Cos Mtg.	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30 SB & Mtg.		9:30 Lender's Mtg.	
9:45		9:45	Town Hall WSC Davidson Conf Center	9:45	Vandenberg Club
10		10		10	
10:15		10:15		10:15	
10:30 Mtg. w/ Dr. Hoobler &		10:30		10:30	
10:45 LV for Airport Staff		10:45		10:45	
11	for Dulles	11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12 Dept. Mgr: Wild 91		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1:05 LV United Flt. 54	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2:10 AR: LA		2 SBA Employee Mtg.		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3 AR Hotel		3		3	
3:15		3:15		3:15	
3:30 Down Time		3:30		3:30	
3:45		3:45		3:45	
4 T.S. Chung Intvw @		4		4	
4:15	Westin H.	4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30 Down Time		5:30		5:30 Sch Mtg.	
5:45		5:45		5:45	
6 Mtg. w/ Jay		6 Mtg. w/ M. Lestic		6	
6:15		6:15		6:15	
6:30 Dinner w/ Craig		6:30 Mayor's Reception		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

September 1993

S	M	T	W	T	F	S
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 1993

S	M	T	W	T	F	S
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 1993

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

# Week Ending August 1

THURSDAY, JULY 29	210	FRIDAY, JULY 30	211	SATURDAY, JULY 31	212
7 Town Hall		7 Town Hall		7 Out of Office	
7:15		7:15		7:15	
7:30		7:30		7:30 (Vacation)	
7:45 Cps Mtg		7:45		7:45	
8 Policy B. Mtg		8 Cps Mtg		8	
8:15		8:15		8:15	
8:30 Mtg w/ Larry Rosenbaum		8:30		8:30	
8:45		8:45		8:45	
9		9 Management Board Mtg		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10 Hearing - Rayburn 2357		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30 Mtg w/ (Lunch) Rep. Spratt		12:30		12:30	
12:45		12:45		12:45	
1 Mtg C. Mayhew C.		1		1	
1:15 Member's Dining 225.5501		1:15		1:15	
1:30		1:30		1:30	
1:45 Mtg w/ Kate Koxen		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30 Mtg w/ Mr. Leslie		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30 Public Intv. - Reconciliation		4:30		4:30	
4:45		4:45		4:45	
5		5 Sprint Mtg w/ Mr. Michael Rabe		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30 Depart SBA for Airport		6:30		6:30	
6:45		6:45		6:45	
7 Under Rish Kelly		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

SUNDAY, AUGUST 1

213

# 2 Week Beginning August

July 1993	August 1993	September 1993
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3	1 2 3 4 5 6 7	1 2 3 4
4 5 6 7 8 9 10	8 9 10 11 12 13 14	5 6 7 8 9 10 11
11 12 13 14 15 16 17	15 16 17 18 19 20 21	12 13 14 15 16 17 18
18 19 20 21 22 23 24	22 23 24 25 26 27 28	19 20 21 22 23 24 25
25 26 27 28 29 30 31	29 30 31	26 27 28 29 30

MONDAY, AUGUST 2	214	TUESDAY, AUGUST 3	215	WEDNESDAY, AUGUST 4	216
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11 M.L. w/ M.L.		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

# Week Ending August 8

October 1993	November 1993	December 1993
S M T W T F S	S M T W T F S	S M T W T F S
3 4 5 6 7 8 9	1 2 3 4 5 6	1 2 3 4
10 11 12 13 14 15 16	7 8 9 10 11 12 13	5 6 7 8 9 10 11
17 18 19 20 21 22 23	14 15 16 17 18 19 20	12 13 14 15 16 17 18
24 25 26 27 28 29 30	21 22 23 24 25 26 27	19 20 21 22 23 24 25
31	28 29 30	26 27 28 29 30 31

THURSDAY, AUGUST 5	217	FRIDAY, AUGUST 6	218	SATURDAY, AUGUST 7	219
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, AUGUST 8	220
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 9 Week Beginning August

July 1993							August 1993							September 1993							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
					1	2	3	4	5	6	7							1	2	3	4
4	5	6	7	8	9	10	8	9	10	11	12	13	14	5	6	7	8	9	10	11	12
11	12	13	14	15	16	17	15	16	17	18	19	20	21	12	13	14	15	16	17	18	19
18	19	20	21	22	23	24	22	23	24	25	26	27	28	19	20	21	22	23	24	25	26
25	26	27	28	29	30	31	29	30	31					26	27	28	29	30			

MONDAY, AUGUST 9	221	TUESDAY, AUGUST 10	222	WEDNESDAY, AUGUST 11	223
7		7		7 B.D. off site	
7:15		7:15		7:15 Baltimore	
7:30		7:30		7:30	
7:45		7:45 COS mtg		7:45	
8 Mtg. w/ COS		8 Policy R. & B. Mtg.		8 Mtg. w/ COS	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9 Secondary Market Mtg.		9		9	
9:15		9:15		9:15	
9:30		9:30 Mtg w/ Dr Hoobler		9:30	
9:45		9:45		9:45	
10		10 Mtg w/ Kathleen		10	
10:15		10:15 (for KB)		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45 LV for W.H.		11:45	
12		12 White House Ball sign		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1 Phone Intrv. - Katharine Barrett		1	
1:15		1:15 Finance World 212 684 9287		1:15	
1:30		1:30 Venture Capital Journal - intrv.		1:30	
1:45		1:45 Kathleen Dougan (212) 213 5200		1:45	
2		2 Interview w/ William Leitch		2	
2:15		2:15 MBE Magazine		2:15	
2:30		2:30 643-7000 DW		2:30	
2:45		2:45		2:45	
3 Prop Time - NAB		3 Intrv. w/ Rilla Woods		3	
3:15		3:15		3:15	
3:30		3:30 Mtg w/ Clayton Weaver		3:30	
3:45		3:45		3:45	
4 Mtg w/ M. & J. IV		4 Mtg. w/ John Whitman		4	
4:15		4:15 Billy Ray		4:15	
4:30 Conference		4:30		4:30	
4:45		4:45		4:45	
5 Kathy: 212-2120		5 LV for BD		5	
5:15		5:15		5:15	
5:30 Mtg w/ Ken Strom		5:30		5:30	
5:45		5:45		5:45	
6 Mtg w/ Jay Rouse		6 BD - off site		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
		7		7	
		7:15		7:15	
		7:30		7:30	
		7:45		7:45	



Week Ending **15**  
August

October 1993	November 1993	December 1993
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6 7 8 9	1 2 3 4 5 6 7 8 9 10 11 12 13	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	19 20 21 22 23 24 25 26 27 28 29 30 31

THURSDAY, AUGUST 12 224	FRIDAY, AUGUST 13 225	SATURDAY, AUGUST 14 226
7 P.D. CIA Site	7 Maine Trip	7
7:15 Baltimore	7:15	7:15
7:30	7:30	7:30
7:45 COS Mtg	7:45	7:45
8 Policy Board	8 Mtg. w/ des	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9 Mtg. w/ Mng. Board	9
9:15	9:15	9:15
9:30	9:30 FIP/ELAP Mtg.	9:30
9:45	9:45	9:45
10	10 Chuck H	10
10:15	10:15	10:15
10:30	10:30 Mtg. w/ Davis Friedman	10:30
10:45	10:45 PSA - Disaster Increase	10:45
11	11 Mtg. w/ Rep. Jesse	11
11:15	11:15 w/ Rep. Jesse	11:15
11:30	11:30 w/ Rep. Jesse	11:30
11:45	11:45 (2nd) 329-7722	11:45
12	12 LA Daily News - Photo 1st	12
12:15	12:15 (SIS) 713-3737 w/ Walter Hammer	12:15
12:30	12:30 Mtg. w/ John Seetha -	12:30
12:45	12:45 Reorganization Mtg.	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6 Mtg. w/ Mary Leslie	6	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7 Dinner w/ Rev Lindsay & K.E.	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

SUNDAY, AUGUST 15

227

# 16 Week Beginning August

July	1993	August	1993	September	1993
SMTWTFSS	123	SMTWTFSS	1234567	SMTWTFSS	1234
4 5 6 7 8 9 10		8 9 10 11 12 13 14		5 6 7 8 9 10 11	
11 12 13 14 15 16 17		15 16 17 18 19 20 21		12 13 14 15 16 17 18	
18 19 20 21 22 23 24		22 23 24 25 26 27 28		19 20 21 22 23 24 25	
25 26 27 28 29 30 31		29 30 31		26 27 28 29 30	

MONDAY, AUGUST 16	228	TUESDAY, AUGUST 17	229	WEDNESDAY, AUGUST 18	230
7 Transition 43		7		7 Mtg w/ Thomas Burger	
7:15		7:15		7:15 Ann. w/ L. G. S.	
7:30		7:30		7:30 1135 1425 S. N.Y.	
7:45		7:45 Mtg w/ COS		7:45 874 1880	
8		8 Pcty. Board		8 Mtg w/ COS	
8:15		8		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9 Harris Family - Pam		9	
9:15		9:15		9:15	
9:30		9:30 Mtg w/ Jim R. R.		9:30	
9:45		9:45		9:45	
10		10 Dr. Hoobler - IG staff		10 Mtg w/ J. G. S. w/ L. G. S.	
10:15		10:15		10:15 325 6802	
10:30		10:30 Mtg w/ Bill Combs NPR		10:30 Mtg w/ Anne Anderson	
10:45		10:45		10:45 452 2801 703 7500 1497	
11		11 Prep Time - VP		11 Mtg w/ Billy Max Paul	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12 EDBC Annual Luncheon	
12:15		12:15		12:15 Guest Speaker	
12:30		12:30		12:30 Speeches Capital City Hotel	
12:45		12:45		12:45 Arlington, VA	
1		1 Inter. Diane Worthington		1:00 Roundtable w/ L. G. S.	
1:15		1:15 w. (702) 356-0779		1:15	
1:30		1:30 w. (702) 274-4839		1:30 T. Debra Spierman	
1:45		1:45		1:45	
2		2 Mtg w/ Malda Brown		2 Mtg w/ Bill Combs - NPR	
2:15		2:15 7425		2:15	
2:30		2:30 Interview w/ Betty Pisk - Insight		2:30 Prep Time - VP	
2:45		2:45 Magazine		2:45	
3		3 Mtg - Reorganization		3	
3:15		3:15		3:15	
3:30		3:30 ML, Jan W. T. Whit.		3:30	
3:45	ARRIVE SBA	3:45 L. R., D. W., B. G. S. J. R.		3:45	
4	NPR PREP TIME	4 K. R. H.		4 Int.	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5 Mtg w/ V. Pres. Herb Wing	
5:15		5:15 Phone Int. Katherine Barrett - FW		5:15 Re: NPR office	
5:30		5:30 - M. L. NAC		5:30 Sugata 295-4245	
5:45		5:45		5:45	
6 Mtg w/ Jay Rouse		6 Mtg w/ Mary Leslie		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30 Dinner w/ Amy Zisook	
7:45		7:45		7:45 BICE 452-2130	



# 23 Week Beginning August

July 1993							August 1993							September 1993							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
							1	2	3						5	6	7	8	9	10	
11	12	13	14	15	16	17				8	9	10	11	12	13	14	15	16	17	18	
18	19	20	21	22	23	24				15	16	17	18	19	20	21					
25	26	27	28	29	30	31				22	23	24	25	26	27	28					
										29	30	31					26	27	28	29	30

MONDAY, AUGUST 23	235	TUESDAY, AUGUST 24	236	WEDNESDAY, AUGUST 25	237
7		7 Brk. Mtg. w/ Tom Nelson	7		
7:15		7:15 @ Mayflower 703/614, 4670	7:15		
7:30		7:30 In	7:30		
7:45		7:45 COS Mtg.	7:45		
8 Mtg. w/ COS		8 Policy Board	8 Mtg. w/ COS		
8:15		8:15	8:15		
8:30		8:30	8:30 Reorganization Mtg.		
8:45		8:45	8:45		
9		9	9		
9:15		9:15	9:15		
9:30		9:30	9:30		
9:45		9:45	9:45		
10 Mtg. w/ Dennis Thayer		10	10		
10:15 4:00 1101 150 ST, NW		10:15	10:15		
10:30 466 2100, BC		10:30 Intv. w/ Jamie Yeager	10:30		
10:45		10:45 Min. Bus. Dev. (EB DW)	10:45		
11 Intv. w/ TS Chung		11 Mtg. w/ Susan McGinn	11		
(213) 955-9900		11:15	11:15		
11:15		11:30 Mtg. w/ RH, CH, AM	11:30		
11:30		11:45 re DCEC	11:45		
11:45		12	12		
12		12:15	12:15		
12:15		12:30	12:30		
12:30		12:45	12:45		
12:45		1	1 Mtg. w/ Sam Khan, ML, G, F, JC		
1 Lunch w/ Will Dunbar		1:15	1:15		
1:15		1:30	1:30 Mtg. w/ Cheryl Thompson		
1:30:10 973-6348		1:45	1:45		
1:45		2 Mtg. w/ Ken Yancey (SCORZ)	2 Mtg. w/ Jack Fairis		
2		2:15 RB, ML 77429	2:15		
2:15		2:30	2:30 Contact Carol		
2:30 Conf. calls ARAPACS		2:45	2:45 BC ML		
2:45		3	3		
3 (Drop By) Surety Guarantee Assoc		3:15	3:15		
3:15 Conf. Barbara 6540		3:30	3:30		
3:30 SDC Mtg. (Planning)		3:45	3:45		
3:45 Sandra x 676		4	4		
4 Approval changes SCA		4:15	4:15		
4:15 DW, J. White, KS		4:30	4:30		
4:30 21		4:45	4:45		
4:45		5 Follow-up Trade Mtg.	5		
5		5:15	5:15		
5:15		5:30 ML	5:30		
5:30 Mtg. - RE: IDAQ		5:45	5:45		
5:45 J. White, J. White, DW, Jane White		6	6		
6 Mtg. w/ Jay Rouse		6:15	6:15		
6:15		6:30	6:30		
6:30		6:45	6:45		
6:45		7 Dinner w/ John Sabagaj	7		
7		7:15 630, 8:500	7:15		
7:15		7:30	7:30		
7:30		7:45	7:45		
7:45					

October 1993	November 1993	December 1993	Week Ending <b>29</b> August
S M T W T F S	S M T W T F S	S M T W T F S	
1 2	1 2 3 4 5 6	1 2 3 4	
3 4 5 6 7 8 9	7 8 9 10 11 12 13	5 6 7 8 9 10 11	
10 11 12 13 14 15 16	14 15 16 17 18 19 20	12 13 14 15 16 17 18	
17 18 19 20 21 22 23	21 22 23 24 25 26 27	19 20 21 22 23 24 25	
24 25 26 27 28 29 30	28 29 30	26 27 28 29 30 31	
31			

THURSDAY, AUGUST 26	238	FRIDAY, AUGUST 27	239	SATURDAY, AUGUST 28	240
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8:00	<i>Mtg. w/ Cops</i>	8		8	
8:15	<i>Pol. &amp; Board</i>	8:15		8:15	
8:30		8:30	<i>Reorganization Mtg.</i>	8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1	<i>Common. Dev. Empowerment WK. Gen. NEC</i>	1	
1:15		1:15		1:15	
1:30		1:30	<i>DEDB Rm.</i>	1:30	
1:45		1:45	<i>ML 324-c</i>	1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
				SUNDAY, AUGUST 29	241



# 30 Week Beginning August

July 1993	August 1993	September 1993
SMTWTFSS	SMTWTFSS	SMTWTFSS
1 2 3	1 2 3 4 5 6 7	1 2 3 4
4 5 6 7 8 9 10	8 9 10 11 12 13 14	5 6 7 8 9 10 11
11 12 13 14 15 16 17	15 16 17 18 19 20 21	12 13 14 15 16 17 18
18 19 20 21 22 23 24	22 23 24 25 26 27 28	19 20 21 22 23 24 25
25 26 27 28 29 30 31	29 30 31	26 27 28 29 30

MONDAY, AUGUST 30	242	TUESDAY, AUGUST 31	243	WEDNESDAY, SEPTEMBER 1	244
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8 Mtg. w/ COS		8 Policy BD		8 Reorganization Mtg.	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9 Trip to Philadelphia Regional & Dist. Offices		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10 Mtg. w/ Dr. Hoobler		10 Cliff Toulson 215/462-5750		10	
10:15		10:15		10:15	
10:30 Mtg. w/ Hoobler & Staff		10:30 Remarks: 4 PPS		10:30	
10:45		10:45		10:45	
11 Mtg. w/ Ken Fisher		11		11 Mtg. w/ AFL-CIO	
11:15		11:15		11:15	
11:30 Mtg. w/ P.C. Bryant		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1 Mtg. w/ Frank Brooks		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2 Mtg. w/ Emilio Pisco		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30 Mtg. w/ Adrian Brainerd		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5 Mtg. w/ Ken Gauthier, Herb Spica		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

October 1993	November 1993	December 1993	Week Ending September 5
S M T W T F S	S M T W T F S	S M T W T F S	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	

THURSDAY, SEPTEMBER 2	245	FRIDAY, SEPTEMBER 3	246	SATURDAY, SEPTEMBER 4	247
7		7		7	
7:15				7:15	
7:30		7:30		7:30	
7:45 Allen Neece 202 887-5899		7:45		7:45	
8 Policy Board Mtg.		8		8	
8:15		8:15		8:15	
8:30 Mtg. w/ M.L. Janssen, R.H.		8:30		8:30	
8:45		8:45		8:45	
9 re instructing Kenneth & Joe Step 1000		9 Management Board Mtg		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10 Mtg. w/ Bob Allen		10		10	
10:15 Health Insur. 702/750-9501		10:15		10:15	
10:30 Betty Plisk		10:30 Mtg. w/ Bruce Lindsey		10:30	
10:45 636 3254		10:45 C. W.H. 452 2668		10:45	
11 Wash. Times		11		11	
11:15		11:15		11:15	
11:30 Photo Shoot - L.S.		11:30 Mtg. w/ George Robinson x 6750		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2 Interview - Ann Bauer		2		2	
2:15 Claude Gorman 347-5529		2:15		2:15	
2:30 Mtg. w/ George Robinson x 9145		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4 Mtg. w/ John Galles 293-8830		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, SEPTEMBER 5	248
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 6 Week Beginning September

August 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September 1993

S	M	T	W	T	F	S
1	2	3	4			
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## LABOR DAY

MONDAY, SEPTEMBER 6	249	TUESDAY, SEPTEMBER 7	250	WEDNESDAY, SEPTEMBER 8	251
7		7		7	
7:15				7:15	Colorado Trip
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8 Policy Board Mtg.		8 Cos Mtg	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	Heckler's
9:30		9:30		9:30	Can't
9:45		9:45		9:45	
10		10 NPR - Announcement		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12 Lunch @ White House	
12:15		12:15		12:15	Small Business
12:30		12:30		12:30	Old Family Dining Room
12:45		12:45		12:45	Any 7
1		1		1	45-2930
1:15		1:15		1:15	
1:30		1:30		1:30	LV for Airport
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	Flight - Minnesota Co
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3 Meeting w/ Christine Heane		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5 Phone Interview - Radio		5	
5:15		5:15		5:15	
5:30		5:30 (Georgia & Kansas)		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	Welcome by EB
7:30		7:30		7:30	
7:45		7:45		7:45	

7-2 Mtg w/ IRA Magalier

# Week Ending September 12

November 1993	December 1993	January 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6	1 2 3 4	1
7 8 9 10 11 12 13	5 6 7 8 9 10 11	2 3 4 5 6 7 8
14 15 16 17 18 19 20	12 13 14 15 16 17 18	9 10 11 12 13 14 15
21 22 23 24 25 26 27	19 20 21 22 23 24 25	16 17 18 19 20 21 22
28 29 30	26 27 28 29 30 31	23 24 25 26 27 28 29
		30 31

THURSDAY, SEPTEMBER 9 252	FRIDAY, SEPTEMBER 10 253	SATURDAY, SEPTEMBER 11 254
7 Phnx. Intv. - Radio	7	7
7:15 NPR	7:15	7:15
7:30 Florida, Louis. Tx	7:30	7:30
7:45 3-20 min.	7:45	7:45
8 Rocky Mtn. Trade	8 CDS Mtg	8
8:15 Corridor	8:15	8:15
8:30	8:30	8:30
8:45 Keynote Address	8:45	8:45
9	9 Management Board	9
9:15	9:15	9:15
9:30 Press Conf. - NAFTA	9:30	9:30
9:45 Kato - Parker	9:45	9:45
10 X 260	10	10
10:15	10:15	10:15
10:30 Mtg. w/ Thomas Redder	10:30	10:30
10:45 303/223-9629	10:45	10:45
11 Rev VIII	11	11
11:15 Mtg. w/ Michelle Harper	11:15	11:15
11:30 332-3340	11:30	11:30
11:45 332-3445 p.m. KB	11:45	11:45
12	12 US Sec Exchange Comm.	12
12:15	12:15 Lunch, Register	12:15
12:30	12:30 Board in life 272-7684	12:30
12:45 Flight - United Continental	12:45 Wayleave	12:45
1	1	1
1:15	1:15 Greg Dean 21451	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2 NAFTA Briefing w/ Mack Mel...	2
2:15	2:15 Mickey Kantor	2:15
2:30	2:30 DEOB - Rm 450	2:30
2:45	2:45 Laura 456-6390	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30 Mtg. w/ Michael Sheehan	3:30
3:45	3:45	3:45
4	4 RE: HC Message	4
4:15	4:15 Training	4:15
4:30	4:30	4:30
4:45	4:45 Rm. 160	4:45
5	5	SUNDAY, SEPTEMBER 12 255
5:15	5:15	
5:30	5:30	
5:45	5:45	
6	6	
6:15 AR Washington, DC	6:15	
6:30	6:30	
6:45	6:45	
7	7	
7:15	7:15	
7:30	7:30	
7:45	7:45	

8:00 am Mtg. w/ John Satagaj / w

# 13 Week Beginning September

August 1993  
S M T W T F S  
1 2 3 4 5 6 7  
8 9 10 11 12 13 14  
15 16 17 18 19 20 21  
22 23 24 25 26 27 28  
29 30 31

September 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30

October 1993  
S M T W T F S  
1 2  
3 4 5 6 7 8 9  
10 11 12 13 14 15 16  
17 18 19 20 21 22 23  
24 25 26 27 28 29 30  
31

Atlanta, GA

MONDAY, SEPTEMBER 13 256	TUESDAY, SEPTEMBER 14 257	WEDNESDAY, SEPTEMBER 15 258
7 Town Hall Mtg	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8 LOS Mtg
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9 Employer's Mtg	9	9 Meeting with Mark Harty
9:15	9:15	9:15
9:30	9:30 Arrive 1:30 am	9:30
9:45	9:45	9:45
10	10	10 Meeting with Mark Harty
10:15	10:15	10:15
10:30	10:30 NAFTA - Kick off	10:30
10:45	10:45 Last Run	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30 Hispanic Business CEO
12:45	12:45	12:45 Capital Hilton
1 Leaders' Mtg	1 Mtg w/ US Chamber of Comm.	1
1:15	1:15 San Juan Health Care	1:15
1:30	1:30 Committee	1:30
1:45	1:45	1:45
2	2	2 (A) George Vistas
2:15	2:15	2:15
2:30	2:30 Mtg w/ DDS & RAS	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6	6 Mtg w/ ML	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7 T.H. Mtg	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

Delta

01052



# Week Ending 19

## September

November 1993	December 1993	January 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6	1 2 3 4	2 3 4 5 6 7 8
7 8 9 10 11 12 13	5 6 7 8 9 10 11	9 10 11 12 13 14 15
14 15 16 17 18 19 20	12 13 14 15 16 17 18	16 17 18 19 20 21 22
21 22 23 24 25 26 27	19 20 21 22 23 24 25	23 24 25 26 27 28 29
28 29 30	26 27 28 29 30 31	30 31

THURSDAY, SEPTEMBER 16	259	FRIDAY, SEPTEMBER 17	260	SATURDAY, SEPTEMBER 18	261
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45	LOS Mtg.	7:45		7:45	
8	Policy Board Mtg.	8	LOS Mtg.	8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9	Management Board Mtg.	9	
9:15		9:15		9:15	
9:30	Small Business Roundtable	9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30	Arrive 2261 Rayburn	10:30	
10:45		10:45		10:45	
11	Personal Affairs & H	11	University Board Mtg.	11	
11:15		11:15	Dep. M. Finner	11:15	
11:30		11:30	226 7613	11:30	
11:45		11:45	Finance 26700	11:45	
12		12	11:30 AM 135 E. Rayburn	12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15	P.	1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2	Black Chamber of Commerce	2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, SEPTEMBER 19	262
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 20 Week Beginning September

August 1993  
S M T W T F S  
1 2 3 4 5 6 7  
8 9 10 11 12 13 14  
15 16 17 18 19 20 21  
22 23 24 25 26 27 28  
29 30 31

September 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30

October 1993  
S M T W T F S  
1 2  
3 4 5 6 7 8 9  
10 11 12 13 14 15 16  
17 18 19 20 21 22 23  
24 25 26 27 28 29 30  
31

MONDAY, SEPTEMBER 20 265	TUESDAY, SEPTEMBER 21 264	WEDNESDAY, SEPTEMBER 22 265
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30 Health Care Workshops	8:30
8:45	8:45 Congress Rm S-C-5A	8:45
9 Depart SBA for Hill	9	9
9:15	9:15	9:15
9:30 H.C. Workshop Rm-HC5B	9:30	9:30
9:45	9:45 Steve Edelstein	9:45
10	10 Steve Edelstein	10 8(A) Hearing
10:15	10:15 45L-25L6	10:15
10:30	10:30	10:30 Rayburn
10:45	10:45	10:45 Rm. 2359
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12 Break	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2 H.C. Workshops Rm HC5B	2 Prep Time 8(A)	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30 Meeting with Monica Turner
3:45	3:45	3:45 (Lunch) New Lodge
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6 Mtg w/ Jay Rouse	6 Mtg w/ ML	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7	7	7 LV for NY
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

**Week Ending September 26**

2026 ... .. "Rakibul Islam" ...

# 27 Week Beginning September

August 1993	September 1993	October 1993
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6 7	1 2 3 4	1 2
8 9 10 11 12 13 14	5 6 7 8 9 10 11	3 4 5 6 7 8 9
15 16 17 18 19 20 21	12 13 14 15 16 17 18	10 11 12 13 14 15 16
22 23 24 25 26 27 28	19 20 21 22 23 24 25	17 18 19 20 21 22 23
29 30 31	26 27 28 29 30	24 25 26 27 28 29 30
		31

MONDAY, SEPTEMBER 27 270	TUESDAY, SEPTEMBER 28 271	WEDNESDAY, SEPTEMBER 29 272
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8:00 <i>Los Mtg.</i>	8:00 <i>Board Mtg.</i>	8:00
8:15	8:15	8:15
8:30	8:30 <i>mt. w/ John Clark</i>	8:30 <i>DEOB Room 118</i>
8:45	8:45 <i>Est. Bus. Mtg.</i>	8:45 <i>Janet's Mtg. 145, 2nd fl.</i>
9	9	9
9:15	9:15	9:15
9:30 <i>Depart 1st floor 9:55 AM 11th fl.</i>	9:30	9:30
9:45	9:45	9:45
10:00 <i>Ki</i>	10:00 <i>John Portney / Analysis team</i>	10:00 <i>Genet. Bank. 1st fl.</i>
10:15	10:15	10:15 <i>Room 118/119/120</i>
10:30	10:30	10:30 <i>538</i>
10:45	10:45	10:45
11	11	11
11:15 <i>mt. H. C.</i>	11:15	11:15
11:30	11:30	11:30
11:45 <i>Mtg. w/ Michael S. 118</i>	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30 <i>CEO Luncheon (this house)</i>
12:45	12:45	12:45 <i>press conference</i>
1	1 <i>TPCC Planning/Brkfst.</i>	1
1:15	1:15	1:15 <i>New York 12/07/15</i>
1:30 <i>Mtg. w/ Red Taylor 11th fl.</i>	1:30	1:30 <i>West Wing</i>
1:45 <i>mt. out</i>	1:45	1:45
2 <i>mt. w/ John Clark - Best. Bus. Mtg.</i>	2	2 <i>Boardroom 118</i>
2:15 <i>(4:2) 199-1186 (Sandra George)</i>	2:15	2:15
2:30 <i>Mtg. w/ D. 118/119</i>	2:30	2:30
2:45	2:45	2:45
3 <i>Mtg. w/ D. 118/119/120</i>	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30 <i>(mt. Mtg) via Chicago 4:30 PM</i>
4:45	4:45	4:45
5 <i>Janis K.</i>	5	5
5:15	5:15	5:15
5:30	5:30	5:30 <i>Arrive Chicago 5:39 PM</i>
5:45	5:45	5:45
6 <i>Mtg. w/ Jay Pouse</i>	6 <i>Mtg. w/ M.L.</i>	6
6:15	6:15	6:15
6:30	6:30 <i>The Nat'l Geographic (TV)</i>	6:30
6:45	6:45 <i>Tomorrow at 6:45</i>	6:45
7	7 <i>Bus. Mtg.</i>	7 <i>Dept. Chic. 118 #145</i>
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

Board Mtg 9:29 PM

November 1993      December 1993      January 1994

S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
1	2	3	4	5	6		1	2	3	4				2	3	4	5	6	7	8
7	8	9	10	11	12	13	5	6	7	8	9	10	11	9	10	11	12	13	14	15
14	15	16	17	18	19	20	12	13	14	15	16	17	18	16	17	18	19	20	21	22
21	22	23	24	25	26	27	19	20	21	22	23	24	25	23	24	25	26	27	28	29
28	29	30					26	27	28	29	30	31		30	31					

**Week Ending**  
**October 3**

THURSDAY, SEPTEMBER 30	273	FRIDAY, OCTOBER 1	274	SATURDAY, OCTOBER 2	275
7 <i>Town Hall</i>		7 <i>Town Hall</i>		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30 <i>Levee Mtg.</i>		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45 <i>for 10:30</i>		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, OCTOBER 3	276
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30 <i>Town Hall</i>		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			



# 4 Week Beginning October

September 1993

S	M	T	W	T	F	S
	1	2	3	4		
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 1993

S	M	T	W	T	F	S
	1	2				
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 1993

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

MONDAY, OCTOBER 4	277	TUESDAY, OCTOBER 5	278	WEDNESDAY, OCTOBER 6	279
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45 COS Mtg.		7:45	
8 COS Mtg		8 Policy Board Mtg		8 COS Mtg	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9 Mtg. 15400 MCC Univ	
9:15		9:15		9:15	
9:30		9:30		9:30 Regon for JH	
9:45		9:45		9:45	
10 Official Photo		10		10 NC State American Leaders	
10:15		10:15		10:15 with VP. Cath. Boston	
10:30 Mtg w/ Dr. Haskin & Staff		10:30	Indira Tiffney Room 474	10:30 Indira Tiffney	
10:45		10:45		10:45	
11		11 Panel at W.H.		11	
11:15		11:15	Monksdie	11:15	
11:30		11:30 Employment Zones Creative		11:30	
11:45		11:45	Financing	11:45	
12		12 Minority Entrep. Dev. Week		12	
12:15		12:15 Kick-off Luncheon		12:15	
12:30		12:30 Banquet Room (XL 421)		12:30 P.B. 111	
12:45 (Arrived City Hall Mtg.)		12:45 (Arrived City Hall Mtg.)		12:45 (Arrived City Hall Mtg.)	
1		1		1	
1:15		1:15		1:15	
1:30		1:30 NARITA Boring for NC Press		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6 Mtg w/ Jay Rouse		6 Mtg w/ M.L.		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

Week Ending **10**  
October

December 1993	January 1994	February 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4	1	1 2 3 4 5
5 6 7 8 9 10 11	2 3 4 5 6 7 8	6 7 8 9 10 11 12
12 13 14 15 16 17 18	9 10 11 12 13 14 15	13 14 15 16 17 18 19
19 20 21 22 23 24 25	16 17 18 19 20 21 22	20 21 22 23 24 25 26
26 27 28 29 30 31	23 24 25 26 27 28 29	27 28
	30 31	

THURSDAY, OCTOBER 7 280	FRIDAY, OCTOBER 8 281	SATURDAY, OCTOBER 9 282
7 Town Hall	7 Town Hall	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	SUNDAY, OCTOBER 10 283
5:15	5:15	
5:30	5:30	
5:45	5:45	
6	6	
6:15	6:15	
6:30	6:30	
6:45	6:45	
7 Town Hall	7	
7:15	7:15	
7:30	7:30	
7:45	7:45	

# 11 Week Beginning October

September 1993

S	M	T	W	T	F	S
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 1993

S	M	T	W	T	F	S
			1	2		
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

## COLUMBUS DAY

MONDAY, OCTOBER 11	284	TUESDAY, OCTOBER 12	285	WEDNESDAY, OCTOBER 13	286
7		7		7	Town Hall Mtg
7:15		7:15		7:15	USD Ad. Dev. & Houston
7:30		7:30		7:30	
7:45		7:45	Cos Mtg.	7:45	
8		8	Policy Board	8	
8:15		8:15		8:15	
8:30		8:30		8:30	Ex. Int. & Land Use
8:45		8:45		8:45	Ex. Int. & Land Use
9		9		9	572 978-1500
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10	Mtg. w/ Dr. Hoobler	10	
10:15		10:15		10:15	
10:30		10:30	Mtg. w/ Frank Lavi	10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3	Andrews Air Force	3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4	Leaving for NC	4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6	Mtg. w/ ML	6	
6:15		6:15		6:15	
6:30		6:30		6:30	Town Hall
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

December 1993	January 1994	February 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4	1	1 2 3 4 5
5 6 7 8 9 10 11	2 3 4 5 6 7 8	6 7 8 9 10 11 12
12 13 14 15 16 17 18	9 10 11 12 13 14 15	13 14 15 16 17 18 19
19 20 21 22 23 24 25	16 17 18 19 20 21 22	20 21 22 23 24 25 26
26 27 28 29 30 31	23 24 25 26 27 28 29	27 28
	30 31	

Week Ending **17**  
October

THURSDAY, OCTOBER 14 287	FRIDAY, OCTOBER 15 288	SATURDAY, OCTOBER 16 289
7 7:15 7:30 7:45 8 8:15 8:30 Lender's Mtg. 8:45 9 9:15 9:30 9:45 10 10:15 10:30 10:45 11 11:15 11:30 11:45 12 Keynote - Texas Conf. 12:15 12:30 12:45 1 1:15 1:30 1:45 2 Employee Mtg. 2:15 2:30 2:45 3 3:15 3:30 3:45 4 4:15 4:30 4:45 5 5:15 5:30 5:45 6 6:15 6:30 6:45 7 7:15 7:30 7:45	7 7:15 7:30 7:45 8 8:15 8:30 Welcome - Rick Pitt & A 8:45 Boardroom for Conference 9 9:15 9:30 Mtg. of SS people 9:45 10 Mount Kisco Book 10:15 10:30 10:45 3:45 PM (10) 3:19 PM 11 11:15 11:30 11:45 12 12:15 12:30 12:45 1 1:15 1:30 1:45 2 2:15 2:30 2:45 3 3:15 3:30 3:45 4 4:15 4:30 4:45 5 5:15 5:30 5:45 6 6:15 6:30 6:45 7 7:15 7:30 7:45	7 7:15 7:30 7:45 8 8:15 8:30 8:45 9 9:15 9:30 9:45 10 10:15 10:30 10:45 11 11:15 11:30 11:45 12 12:15 12:30 12:45 1 1:15 1:30 1:45 2 2:15 2:30 2:45 3 3:15 3:30 3:45 4 4:15 4:30 4:45 5 5:15 5:30 5:45 6 6:15 6:30 6:45 7 7:15 7:30 7:45 SUNDAY, OCTOBER 17 290

November 1993

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

MONDAY, OCTOBER 18	291	TUESDAY, OCTOBER 19	292	WEDNESDAY, OCTOBER 20	293
7		7		7	
7:15		7:15		7:15	
7:30	HARRY PASTER 205-6 WU	7:30		7:30	
7:45		7:45 cos Mtg.		7:45	
8 Kentucky		8 Pottery Board		8	
8:15	William H. R. M.H.	8:15		8:15	
8:30	Louise Layman & Son	8:30		8:30 Florida	
8:45	Bruce Gail Cantor's	8:45		8:45	
9 Selors F.F.	Bill Selors	9		9 Nat. Minority	Singular Deer Council
9:15	Cassidy Post 1st Br's mission	9:15		9:15	
9:30	Gertie de la Courbe	9:30		9:30	
9:45 T.F.L.	(100) 354-4007	9:45		9:45 Harriet Michael	
10 Spadthurm Co	Lynn Hutchinson	10 Great ... ..		10 Suzette Collier	(200) 324-2125
10:15		10:15		10:15	
10:30		10:30 Cassandra Bulley's apartment		10:30	
10:45		10:45		10:45	
11		11	Get Counsel	11	
11:15 Bill Leachator	(502) 582-5958	11:15		11:15 E	
11:30		11:30		11:30 Leah ...	V
11:45 Depart Hampton	USAIR #102	11:45		11:45	
12		12		12	
12:15 Pittsburgh	USAIR #326	12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30	Philip Eric Government	2:30	
2:45 Arrive Wash	2:43 PM	2:45	Go Flor Amn Ken STA D Hill	2:45	
3 Mtg w/ Alex S.P.W.	Rogers &	3		3	
3:15	Jean L. Karp, EB	3:15		3:15	
3:30		3:30 Mtg w/ Art + De Parker		3:30	
3:45		3:45	John P. ...	3:45	
4		4	Maria W. Sanchez McPherson	4	
4:15		4:15	Nancy W. Craig ...	4:15	
4:30		4:30 Mtg w/ Ed Covelevich		4:30	
4:45		4:45		4:45	
5		5	Mtg w/ Karen ...	5	
5:15		5:15		5:15	
5:30	Mtg w/ Sci Lockeniller	5:30		5:30	
5:45		5:45		5:45	
6		6 Mtg w/ M.L.		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7 LV for Florida		7	
7:15		7:15	L40	7:15	
7:30		7:30		7:30	
7:45		7:45 Walt Disney ...		7:45	Fair (407) 824-4894

Walt Disney Dis. Plan 7:45 for 407 934-4899  
1900 Great East 1000  
Laid - 22530 407-934-1000



December 1993	January 1994	February 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4	2 3 4 5 6 7 8	1 2 3 4 5
5 6 7 8 9 10 11	9 10 11 12 13 14 15	6 7 8 9 10 11 12
12 13 14 15 16 17 18	16 17 18 19 20 21 22	13 14 15 16 17 18 19
19 20 21 22 23 24 25	23 24 25 26 27 28 29	20 21 22 23 24 25 26
26 27 28 29 30 31	30 31	27 28

Week Ending **24**  
October

THURSDAY, OCTOBER 21	294	FRIDAY, OCTOBER 22	295	SATURDAY, OCTOBER 23	296
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45 COS Mtg		7:45		7:45	
8 Policy Board Mtg		8 COS Mtg		8	
8:15		8:15		8:15	
8:30		8:30 Mtg w/ Rick Hernandez		8:30	
8:45		8:45		8:45	
9		9 Management Board Mtg		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10 P. 12.00 call		10 P. 12.00 call		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, OCTOBER 24	297
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 25 Week Beginning October

September 1993

SMTWTFS  
 1 2 3 4  
 5 6 7 8 9 10 11  
 12 13 14 15 16 17 18  
 19 20 21 22 23 24 25  
 26 27 28 29 30

October 1993

SMTWTFS  
 1 2 3 4 5 6 7 8 9  
 10 11 12 13 14 15 16  
 17 18 19 20 21 22 23  
 24 25 26 27 28 29 30  
 31

November 1993

SMTWTFS  
 1 2 3 4 5 6  
 7 8 9 10 11 12 13  
 14 15 16 17 18 19 20  
 21 22 23 24 25 26 27  
 28 29 30

MONDAY, OCTOBER 25 298	TUESDAY, OCTOBER 26 299	WEDNESDAY, OCTOBER 27 300
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45 <i>cos mty</i>	7:45
8 COS Mty	8 Dolly Bird Mty	8 COS Mty
8:15	8:15	8:15
8:30 <i>(104) 335-4125 Sam</i>	8:30	8:30
8:45	8:45	8:45
9 <i>NC EBA w/VP</i>	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10 <i>Mty w/ Dr. H. Fisher</i>	10 <i>Interview, Dr. H. Fisher</i>	10
10:15	10:15	10:15
10:30 <i>Mty w/ Dr. H. Fisher</i>	10:30	10:30
10:45	10:45	10:45
11	11 <i>Ly for Baltimore, MD</i>	11 <i>Mty w/ Dr. H. Fisher (from Adm)</i>
11:15	11:15	11:15 <i>from (104) 335-4125</i>
11:30	11:30	11:30 <i>from (104) 335-4125</i>
11:45	11:45	11:45 <i>from (104) 335-4125</i>
12	12 <i>Nat'l Venture Capital</i>	12
12:15	12:15 <i>Assoc</i>	12:15
12:30	12:30 <i>Assoc Harbor Place 11th fl</i>	12:30
12:45	12:45 <i>102 E Pratt St</i>	12:45
1	1 <i>(410) 547-1300</i>	1 <i>Mty V</i>
1:15	1:15 <i>Ned Shugartson x 7581</i>	1:15
1:30	1:30	1:30
1:45	1:45 <i>Depart for SBA</i>	1:45
2	2 <i>(410) 335-4125 Samie Paulfeld</i>	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3 <i>V L</i>
3:15	3:15	3:15
3:30 <i>Depart Charlotte</i>	3:30	3:30
3:45 <i>USAR #4110</i>	3:45	3:45
4	4 <i>Mty w/ Dr. H. Fisher</i>	4
4:15	4:15	4:15
4:30	4:30 <i>Dr. H. Fisher's staff</i>	4:30
4:45 <i>Arrive Washington 4:42</i>	4:45	4:45
5	5 <i>Mty w/ Dr. H. Fisher (115-1135)</i>	5 <i>Larry King radio Int</i>
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6 <i>Mty w/ Jay Rouse</i>	6 <i>Mty w/ ML</i>	6 <i>Meeting by Rth</i>
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7 <i>Span Interview</i>	7	7 <i>Span Interview</i>
7:15	7:15	7:15 <i>Span 25-3231</i>
7:30	7:30	7:30 <i>410, 547-1300</i>
7:45	7:45	7:45

December 1993	January 1994	February 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4	2 3 4 5 6 7 8	1 2 3 4 5
5 6 7 8 9 10 11	9 10 11 12 13 14 15	6 7 8 9 10 11 12
12 13 14 15 16 17 18	16 17 18 19 20 21 22	13 14 15 16 17 18 19
19 20 21 22 23 24 25	23 24 25 26 27 28 29	20 21 22 23 24 25 26
26 27 28 29 30 31	30 31	27 28

Week Ending **31**  
October

THURSDAY, OCTOBER 28	301	FRIDAY, OCTOBER 29	302	SATURDAY, OCTOBER 30	303
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45 COS Mtg.		7:45		7:45	
8 Policy Bd. Mtg.		8 COS Mtg.		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9 Dr. Fields & Janet Lynch		9	
9:15		9:15 (S. J. 749)		9:15	
9:30		9:30 Wearing-in (Gessner)		9:30	
9:45		9:45 Eckenhauser Room		9:45	
10		10		10	
10:15		10:15		10:15	
10:30	2:33 Rayman Hg.	10:30 Atty. w/ Berkeley Mayor		10:30	
10:45		10:45	India 61673	10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15	Wt. Cong. Sam Mayers	2:15		2:15	
2:30	Ray 25339 25-2915	2:30		2:30	
2:45	Wt. w/ Sen. Padden	2:45		2:45	
3		3		3	
3:15	Russell 283	3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, OCTOBER 31	304
5:15	Dinner w/ Lofgren	5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15	Mtg. w/ ML	6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 1 Week Beginning November

October 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

MONDAY, NOVEMBER 1 305	TUESDAY, NOVEMBER 2 306	WEDNESDAY, NOVEMBER 3 307
7	7	7 Town Hall
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45 Cos Mtg.	7:45
8 Cos Mtg.	8 Policy Bd Mtg.	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15 h	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10 Sweeney in WHCC	10	10
10:15	10:15	10:15
10:30 US Chamber	10:30	10:30
10:45	10:45	10:45
11	11 Briefing in Adm Conf Room	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45 Depts 1:40 for L.P.	1:45
2 Photo shoot for CEO	2	2
2:15 R. Lambert (FBI, R. J. J. J.)	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3 Mtg w/ Susan McCann	3	3
3:15	3:15	3:15
3:30 Mtg w/ Cassandra	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30 Mtg w/ Larry Shaw	5:30	5:30
5:45 724-0891	5:45	5:45
6 Mtg. w/ Jay Reese	6 Reports - Arkansas State	6
6:15	6:15 Chamber of Commerce	6:15
6:30	6:30	6:30
6:45	6:45 Hot Spring, AR	6:45
7	7 Philip Hawkins	7
7:15	7:15 (581) 374-9225	7:15
7:30	7:30	7:30
7:45	7:45	7:45

Denver, CO

Charlotte

Hall  
Town  
Mtg.

January 1994	February 1994	March 1994
S M T W T F S	S M T W T F S	S M T W T F S
1	1 2 3 4 5	1 2 3 4 5
2 3 4 5 6 7 8	6 7 8 9 10 11 12	6 7 8 9 10 11 12
9 10 11 12 13 14 15	13 14 15 16 17 18 19	13 14 15 16 17 18 19
16 17 18 19 20 21 22	20 21 22 23 24 25 26	20 21 22 23 24 25 26
23 24 25 26 27 28 29	27 28	27 28 29 30 31
30 31		

Week Ending **7**  
November

THURSDAY, NOVEMBER 4 308	FRIDAY, NOVEMBER 5 309	SATURDAY, NOVEMBER 6 310
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6	6	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
		SUNDAY, NOVEMBER 7 311

Charlotte

See  
Cancelled

Carolyn Smith

15 min.

Flu on mtg.



# 8 Week Beginning November

October 1993  
S M T W T F S  
1 2  
3 4 5 6 7 8 9  
10 11 12 13 14 15 16  
17 18 19 20 21 22 23  
24 25 26 27 28 29 30  
31

November 1993  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30

December 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

Des Moines, Iowa

MONDAY, NOVEMBER 8 312	TUESDAY, NOVEMBER 9 313	WEDNESDAY, NOVEMBER 10 314
7 Town Hall	7 Town Hall	7 T
7:15	7:15	7:15
7:30 <del>Dep't for Health</del>	7:30	7:30
7:45	7:45	7:45
8 USMC Ins-1104 <del>Head</del>	8	8
8:15	8:15	8:15
8:30 11:30 12:30 pm #706	8:30	8:30 Virtual Mary
8:45	8:45	8:45 <del>admission</del>
9	9 <del>Land's Mtg.</del>	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10 Mtg. w/ Dr. Hoobler	10	10 <del>Int'l Information</del>
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30 Mtg w/ <del>Joe</del>
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30 Mtg w/ <del>Dr.</del>
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5 Town Hall	5	5 Fly to Florida - NASRIC (Naples)
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6	6	6 <del>Workshop: Even Outlook Symposium</del>
6:15	6:15	6:15 <del>Sponsored by Southville</del>
6:30	6:30	6:30 <del>Chamber of Commerce</del>
6:45	6:45	6:45
7	7	7 <del>Guest: Dr. Sid Gorman</del>
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

Week Ending **14**  
November

January 1994	February 1994	March 1994
S M T W T F S	S M T W T F S	S M T W T F S
2 3 4 5 6 7 8	1 2 3 4 5	1 2 3 4 5
9 10 11 12 13 14 15	6 7 8 9 10 11 12	6 7 8 9 10 11 12
16 17 18 19 20 21 22	13 14 15 16 17 18 19	13 14 15 16 17 18 19
23 24 25 26 27 28 29	20 21 22 23 24 25 26	20 21 22 23 24 25 26
30 31	27 28	27 28 29 30 31

VETERANS DAY

THURSDAY, NOVEMBER 11	315	FRIDAY, NOVEMBER 12	316	SATURDAY, NOVEMBER 13	317
7 <b>NASBIC</b>		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9 Management Board Mtg		9	
9:15		9:15		9:15	
9:30 Keynote - NASBIC		9:30		9:30	
9:45 8:30 AM - 2:00 PM		9:45		9:45	
10		10 Mtg w/ DIRM team		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12 Luncheon		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3 Mtg w/ David Carter		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, NOVEMBER 14	318
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 15 Week Beginning November

October 1993	November 1993	December 1993
S M T W T F S	S M T W T F S	S M T W T F S
3 4 5 6 7 8 9	1 2 3 4 5 6	1 2 3 4
10 11 12 13 14 15 16	7 8 9 10 11 12 13	5 6 7 8 9 10 11
17 18 19 20 21 22 23	14 15 16 17 18 19 20	12 13 14 15 16 17 18
24 25 26 27 28 29 30	21 22 23 24 25 26 27	19 20 21 22 23 24 25
31	28 29 30	26 27 28 29 30 31

MONDAY, NOVEMBER 15	319	TUESDAY, NOVEMBER 16	320	WEDNESDAY, NOVEMBER 17	321
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30	Education & Labor Health	9:30	
9:45		9:45		9:45	
10	10:00 - 10:15 - Sgt. Annunzio	10	10:00 - 10:15 - Sgt. Annunzio	10	10:00 - 10:15 - Sgt. Annunzio
10:15	10:15 - 10:30 - Sgt. Annunzio	10:15	10:15 - 10:30 - Sgt. Annunzio	10:15	10:15 - 10:30 - Sgt. Annunzio
10:30	10:30 - 10:45 - Sgt. Annunzio	10:30	10:30 - 10:45 - Sgt. Annunzio	10:30	10:30 - 10:45 - Sgt. Annunzio
10:45	10:45 - 11:00 - Sgt. Annunzio	10:45	10:45 - 11:00 - Sgt. Annunzio	10:45	10:45 - 11:00 - Sgt. Annunzio
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

January 1994	February 1994	March 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6 7 8	1 2 3 4 5	1 2 3 4 5
9 10 11 12 13 14 15	6 7 8 9 10 11 12	6 7 8 9 10 11 12
16 17 18 19 20 21 22	13 14 15 16 17 18 19	13 14 15 16 17 18 19
23 24 25 26 27 28 29	20 21 22 23 24 25 26	20 21 22 23 24 25 26
30 31	27 28	27 28 29 30 31

# Week Ending 21

THURSDAY, NOVEMBER 18 322	FRIDAY, NOVEMBER 19 323	SATURDAY, NOVEMBER 20 324
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6	6	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

SUNDAY, NOVEMBER 21 325

# 22 Week Beginning November

October 1993

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 1993

S	M	T	W	T	F	S
1	2	3	4			
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

MONDAY, NOVEMBER 22	326	TUESDAY, NOVEMBER 23	327	WEDNESDAY, NOVEMBER 24	328
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8 Policy Board Mtg.		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9 Mtg w/ M.L. 3 Weeks, Solange (for meeting)		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30 Mtg w/ Bob Moffat	
9:45		9:45		9:45	
10 Dr. Hoobler Mtg.		10 Mtg w/ Ann Kaplan, Bill Rodwin (for QI-CAO)		10 OIRM Thank you	
10:15		10:15		10:15	
10:30 Mtg w/ Susan McCall		10:30 Solange & Johnston		10:30 C. P. P. (for Solange)	
10:45		10:45		10:45	
11 Mtg w/ NABIC After Mtg. with (for meeting)		11		11	
11:15		11:15		11:15	
11:30		11:30 Mtg w/ Mack & P. (for meeting)		11:30 Solange with Mary Pinson	
11:45		11:45		11:45	
12		12 Scanner 6797		12	
12:15		12:15 15th. meeting		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2 SPT Cable Training		2 Mtg. on JTH w/ S. Con. 5 weeks		2 Eb departs at	
2:15		2:15 8th. Solange, Ann McCall		2:15	
2:30		2:30		2:30	
2:45 Rayburn B-310 335-2125		2:45		2:45	
3		3		3	
3:15 Ann. at 12:30 Room 2310		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4 Change agenda C.A.T.		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6 Mtg w/ M.L.		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	



January 1994	February 1994	March 1994
S M T W T F S	S M T W T F S	S M T W T F S
2 3 4 5 6 7 8	1 2 3 4 5	1 2 3 4 5
9 10 11 12 13 14 15	6 7 8 9 10 11 12	6 7 8 9 10 11 12
16 17 18 19 20 21 22	13 14 15 16 17 18 19	13 14 15 16 17 18 19
23 24 25 26 27 28 29	20 21 22 23 24 25 26	20 21 22 23 24 25 26
30 31	27 28	27 28 29 30 31

Week Ending **28**  
November

### THANKSGIVING DAY

THURSDAY, NOVEMBER 25	329	FRIDAY, NOVEMBER 26	330	SATURDAY, NOVEMBER 27	331
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10		10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11		11	
11:15		11:15		11:15	
11:30		11:30		11:30	
11:45		11:45		11:45	
12		12		12	
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30		1:30	
1:45		1:45		1:45	
2		2		2	
2:15		2:15		2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		SUNDAY, NOVEMBER 28	332
5:15		5:15			
5:30		5:30			
5:45		5:45			
6		6			
6:15		6:15			
6:30		6:30			
6:45		6:45			
7		7			
7:15		7:15			
7:30		7:30			
7:45		7:45			

# 29 Week Beginning November

October 1993  
S M T W T F S  
3 4 5 6 7 8 9  
10 11 12 13 14 15 16  
17 18 19 20 21 22 23  
24 25 26 27 28 29 30  
31

November 1993  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30

December 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

MONDAY, NOVEMBER 29 333	TUESDAY, NOVEMBER 30 334	WEDNESDAY, DECEMBER 1 335
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6	6	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45

# Week Ending December 5

January 1994	February 1994	March 1994
S M T W T F S	S M T W T F S	S M T W T F S
1	1	1
2 3 4 5 6 7 8	6 7 8 9 10 11 12	6 7 8 9 10 11 12
9 10 11 12 13 14 15	13 14 15 16 17 18 19	13 14 15 16 17 18 19
16 17 18 19 20 21 22	20 21 22 23 24 25 26	20 21 22 23 24 25 26
23 24 25 26 27 28 29	27 28	27 28 29 30 31
30 31		

THURSDAY, DECEMBER 2 336	FRIDAY, DECEMBER 3 337	SATURDAY, DECEMBER 4 338
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45 <i>2/2/94 F</i>	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30 <i>CR Key Review</i>	9:30	9:30
9:45	9:45 <i>Sim Waco Goodbye - 1st time, 2nd</i>	9:45
10 <i>Med. W/ Dr. Linder</i>	10 <i>Med. W/ Dr. Linder</i>	10 <i>Media time</i>
10:15	10:15	10:15
10:30	10:30	10:30
10:45 <i>Media time</i>	10:45	10:45
11	11	11
11:15 <i>Dr. Linder (Sim. - not)</i>	11:15 <i>Dr. Linder (Sim. - not)</i>	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45 <i>Media time</i>	12:45
1 <i>Med. W/ Dr. Linder</i>	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45 <i>Med. W/ Dr. Linder</i>	1:45
2 <i>Beom. Development Issues</i>	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15 <i>Health Care Quality Act</i>	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30 <i>Departs for</i>	5:30
5:45	5:45	5:45
6 <i>Med. W/ Dr. Linder</i>	6	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
		SUNDAY, DECEMBER 5 339

# 6 Week Beginning December

November 1993  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30

December 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

January 1994  
S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30 31

MONDAY, DECEMBER 6	340	TUESDAY, DECEMBER 7	341	WEDNESDAY, DECEMBER 8	342
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	Grant for [unclear]
8:30	Dept of Agriculture	8:30		8:30	W. [unclear]
8:45	(PA System)	8:45		8:45	for [unclear]
9		9		9	(411) 297-4457
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10	Dr. Hooker Mtg	10	Mt. W/ S.B.D.C. Phil Adv.	10	
10:15		10:15	Board	10:15	
10:30		10:30	Sub. Dunn	10:30	
10:45		10:45	125-7301	10:45	
11		11	Health Care Security Act	11	
11:15		11:15	with [unclear] [unclear] [unclear]	11:15	
11:30		11:30	Health (Ch) cont. Amy [unclear]	11:30	
11:45		11:45		11:45	
12	Health [unclear]	12	Reschedule	12	
12:15		12:15	for 12/16	12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30	Depart for airport	1:30	
1:45		1:45		1:45	
2	Int. w/ Washington for [unclear]	2		2	
2:15	Adm. [unclear]	2:15		2:15	
2:30	Omaha World Herald	2:30		2:30	
2:45		2:45		2:45	
3	Mtg w/ Susan McConn	3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	
3:45		3:45		3:45	
4	Briefing to discuss	4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6	Mtg w/ Jay Kause	6	Mtg w/ M.L. - Canceled	6	Mtg w/ K. [unclear]
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7	Dinner w/ Susan McConn	7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

Week Ending **12**  
December

February 1994	March 1994	April 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5	1 2 3 4 5	1 2
6 7 8 9 10 11 12	6 7 8 9 10 11 12	3 4 5 6 7 8 9
13 14 15 16 17 18 19	13 14 15 16 17 18 19	10 11 12 13 14 15 16
20 21 22 23 24 25 26	20 21 22 23 24 25 26	17 18 19 20 21 22 23
27 28	27 28 29 30 31	24 25 26 27 28 29 30

THURSDAY, DECEMBER 9 343	FRIDAY, DECEMBER 10 344	SATURDAY, DECEMBER 11 345
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	SUNDAY, DECEMBER 12 346
5:15	5:15	
5:30	5:30	
5:45	5:45	
6	6	
6:15	6:15	
6:30	6:30	
6:45	6:45	
7	7	
7:15	7:15	
7:30	7:30	
7:45	7:45	



# 13 Week Beginning December

November 1993  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30

December 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

January 1994  
S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30 31

MONDAY, DECEMBER 13	347	TUESDAY, DECEMBER 14	348	WEDNESDAY, DECEMBER 15	349
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	
8		8		8	
8:15		8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	
9:45		9:45		9:45	
10	Met w/ Dr. Goshier	10		10	
10:15		10:15		10:15	
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11	Met w/ Nat'l Assoc Govt Gen	11	Bo Teen Church
11:15		11:15	Wardens (Tony Johnson)	11:15	Chuck Johnson
11:30		11:30	405 372-4022	11:30	857-0214
11:45		11:45		11:45	
12	Met w/ Cons. Bailey	12	Supervisors for Cons. Council	12	
12:15	Room 246 DEEDS	12:15		12:15	
12:30	Call 345-3420	12:30		12:30	
12:45		12:45		12:45	
1		1		1	Interview w/ Biz Magazine
1:15		1:15		1:15	
1:30		1:30	Met	1:30	
1:45		1:45	454-3400 (919) 890-4190	1:45	
2		2	Met w/ Wilson Tour	2	
2:15		2:15	Morgan 945-7121	2:15	
2:30		2:30		2:30	
2:45		2:45		2:45	Optional Procurement Council
3		3	Met w/ Nat'l Assoc. Dev. Comm.	3	
3:15		3:15	Cons. Council 945-9200	3:15	
3:30		3:30		3:30	Met w/ Cassandra F. Den. 300 words
3:45		3:45		3:45	Training Resources Group
4		4		4	Met w/ Samy Pohl
4:15		4:15		4:15	
4:30		4:30	Met w/ Paul	4:30	Sharon Sims, NMSDC
4:45		4:45	Met w/ Samy	4:45	Cassandra
5		5	Met w/ Samy	5	
5:15		5:15	Met w/ Samy	5:15	
5:30		5:30	Cons. Comm	5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7	Dinner with Jeff Parker	7	Dinner w/ Samy Gattogi	7	Hold for dinner
7:15	429-8933	7:15	639-8800	7:15	
7:30	Call	7:30	Todd Inn	7:30	
7:45	Call	7:45	Out via 15-20	7:45	

February 1994	March 1994	April 1994
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5	1 2 3 4 5	1 2
6 7 8 9 10 11 12	6 7 8 9 10 11 12	3 4 5 6 7 8 9
13 14 15 16 17 18 19	13 14 15 16 17 18 19	10 11 12 13 14 15 16
20 21 22 23 24 25 26	20 21 22 23 24 25 26	17 18 19 20 21 22 23
27 28	27 28 29 30 31	24 25 26 27 28 29 30

Week Ending **19**  
December

THURSDAY, DECEMBER 16 350	FRIDAY, DECEMBER 17 351	SATURDAY, DECEMBER 18 352
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15 Hold	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30 Jan Spodila	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	SUNDAY, DECEMBER 19 353
5:15	5:15	
5:30	5:30	
5:45	5:45	
6	6	
6:15	6:15	
6:30	6:30	
6:45	6:45	
7	7	
7:15	7:15	
7:30	7:30	
7:45	7:45	

# 20 Week Beginning December

November 1993

S	M	T	W	T	F	S
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 1993

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

January 1994

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

MONDAY, DECEMBER 20	354	TUESDAY, DECEMBER 21	355	WEDNESDAY, DECEMBER 22	356
7		7		7	
7:15		7:15		7:15	
7:30	<i>10:00-11:00 AM</i>	7:30		7:30	
7:45	<i>10:00-11:00 AM</i>	7:45		7:45	
8		8		8	
8:15	<i>10:00-11:00 AM</i>	8:15		8:15	
8:30		8:30		8:30	
8:45		8:45		8:45	
9		9		9	
9:15		9:15		9:15	
9:30		9:30		9:30	<i>Run to School</i>
9:45		9:45		9:45	
10		10	<i>Photo copy</i>	10	<i>Mr. Hume on</i>
10:15		10:15	<i>10:00-11:00 AM</i>	10:15	<i>10:00-11:00 AM</i>
10:30		10:30		10:30	
10:45		10:45		10:45	
11		11	<i>10:00-11:00 AM</i>	11	
11:15		11:15	<i>10:00-11:00 AM</i>	11:15	
11:30		11:30		11:30	<i>Head of Case Mader</i>
11:45		11:45		11:45	<i>Event - See S. S. S. S. S.</i>
12		12		12	<i>Restroom Center</i>
12:15		12:15		12:15	
12:30		12:30		12:30	
12:45		12:45		12:45	
1		1		1	
1:15		1:15		1:15	
1:30		1:30	<i>Mr. W. Virgil</i>	1:30	
1:45		1:45	<i>10:00-11:00 AM</i>	1:45	
2		2	<i>Mr. W. Virgil</i>	2	<i>Mr. W. Virgil</i>
2:15		2:15	<i>10:00-11:00 AM</i>	2:15	<i>10:00-11:00 AM</i>
2:30		2:30		2:30	
2:45		2:45	<i>10:00-11:00 AM</i>	2:45	
3		3		3	
3:15		3:15		3:15	
3:30		3:30		3:30	<i>Mr. W. Virgil</i>
3:45		3:45		3:45	
4		4		4	
4:15		4:15		4:15	
4:30		4:30		4:30	<i>Mr. W. Virgil</i>
4:45		4:45		4:45	
5		5		5	
5:15		5:15		5:15	
5:30		5:30		5:30	
5:45		5:45		5:45	
6		6		6	
6:15		6:15		6:15	
6:30		6:30		6:30	
6:45		6:45		6:45	
7		7		7	
7:15		7:15		7:15	
7:30		7:30		7:30	
7:45		7:45		7:45	

February 1994	March 1994	April 1994	Week Ending December 26
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	

HOLIDAY		CHRISTMAS DAY	
THURSDAY, DECEMBER 23	357	FRIDAY, DECEMBER 24	358
7	7 Out on Vacation	7	
7:15		7:15	
7:30		7:30	
7:45		7:45	
8		8	
8:15		8:15	
8:30		8:30	
8:45		8:45	
9		9	
9:15		9:15	
9:30	mtg w/ Gordon Ruffin	9:30	
9:45	mtg w/ Ruffin 3-500	9:45	
10		10	
10:15		10:15	
10:30	456-3750	10:30	
10:45		10:45	
11		11	
11:15		11:15	
11:30	mtg w/ Ruffin 3-500	11:30	
11:45		11:45	
12		12	
12:15		12:15	
12:30		12:30	
12:45		12:45	
1		1	
1:15		1:15	
1:30	Depart for Chocoma	1:30	
1:45		1:45	
2		2	
2:15		2:15	
2:30		2:30	
2:45		2:45	
3		3	
3:15		3:15	
3:30		3:30	
3:45		3:45	
4		4	
4:15		4:15	
4:30		4:30	
4:45		4:45	
5		5	
5:15		5:15	
5:30		5:30	
5:45		5:45	
6		6	
6:15		6:15	
6:30		6:30	
6:45		6:45	
7		7	
7:15		7:15	
7:30		7:30	
7:45		7:45	
		SUNDAY, DECEMBER 26	360

# 27 Week Beginning December

November 1993  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30

December 1993  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

January 1994  
S M T W T F S  
1  
2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30 31

MONDAY, DECEMBER 27 361	TUESDAY, DECEMBER 28 362	WEDNESDAY, DECEMBER 29 363
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45
8	8	8
8:15	8:15	8:15
8:30	8:30	8:30
8:45	8:45	8:45
9	9	9
9:15	9:15	9:15
9:30	9:30	9:30
9:45	9:45	9:45
10	10	10
10:15	10:15	10:15
10:30	10:30	10:30
10:45	10:45	10:45
11	11	11
11:15	11:15	11:15
11:30	11:30	11:30
11:45	11:45	11:45
12	12	12
12:15	12:15	12:15
12:30	12:30	12:30
12:45	12:45	12:45
1	1	1
1:15	1:15	1:15
1:30	1:30	1:30
1:45	1:45	1:45
2	2	2
2:15	2:15	2:15
2:30	2:30	2:30
2:45	2:45	2:45
3	3	3
3:15	3:15	3:15
3:30	3:30	3:30
3:45	3:45	3:45
4	4	4
4:15	4:15	4:15
4:30	4:30	4:30
4:45	4:45	4:45
5	5	5
5:15	5:15	5:15
5:30	5:30	5:30
5:45	5:45	5:45
6	6	6
6:15	6:15	6:15
6:30	6:30	6:30
6:45	6:45	6:45
7	7	7
7:15	7:15	7:15
7:30	7:30	7:30
7:45	7:45	7:45



February 1994	March 1994	April 1994	Week Ending January 2	
S M T W T F S	S M T W T F S	S M T W T F S		
1 2 3 4 5	1 2 3 4 5	1 2		
6 7 8 9 10 11 12	6 7 8 9 10 11 12	3 4 5 6 7 8 9		
13 14 15 16 17 18 19	13 14 15 16 17 18 19	10 11 12 13 14 15 16		
20 21 22 23 24 25 26	20 21 22 23 24 25 26	17 18 19 20 21 22 23		
27 28	27 28 29 30 31	24 25 26 27 28 29 30		

HOLIDAY		NEW YEAR'S DAY	
THURSDAY, DECEMBER 30	364	FRIDAY, DECEMBER 31	365
SATURDAY, JANUARY 1	1	SUNDAY, JANUARY 2	
7	7	7	7
7:15	7:15	7:15	7:15
7:30	7:30	7:30	7:30
7:45	7:45	7:45	7:45
8	8	8	8
8:15	8:15	8:15	8:15
8:30	8:30	8:30	8:30
8:45	8:45	8:45	8:45
9	9	9	9
9:15	9:15	9:15	9:15
9:30	9:30	9:30	9:30
9:45	9:45	9:45	9:45
10	10	10	10
10:15	10:15	10:15	10:15
10:30	10:30	10:30	10:30
10:45	10:45	10:45	10:45
11	11	11	11
11:15	11:15	11:15	11:15
11:30	11:30	11:30	11:30
11:45	11:45	11:45	11:45
12	12	12	12
12:15	12:15	12:15	12:15
12:30	12:30	12:30	12:30
12:45	12:45	12:45	12:45
1	1	1	1
1:15	1:15	1:15	1:15
1:30	1:30	1:30	1:30
1:45	1:45	1:45	1:45
2	2	2	2
2:15	2:15	2:15	2:15
2:30	2:30	2:30	2:30
2:45	2:45	2:45	2:45
3	3	3	3
3:15	3:15	3:15	3:15
3:30	3:30	3:30	3:30
3:45	3:45	3:45	3:45
4	4	4	4
4:15	4:15	4:15	4:15
4:30	4:30	4:30	4:30
4:45	4:45	4:45	4:45
5	5	5	5
5:15	5:15	5:15	5:15
5:30	5:30	5:30	5:30
5:45	5:45	5:45	5:45
6	6	6	6
6:15	6:15	6:15	6:15
6:30	6:30	6:30	6:30
6:45	6:45	6:45	6:45
7	7	7	7
7:15	7:15	7:15	7:15
7:30	7:30	7:30	7:30
7:45	7:45	7:45	7:45

EB Exhibit 3  
 FOR ID  
 8A 10-31-95

CAPITAL MANAGEMENT SERVICES, INC.  
 LITTLE ROCK, ARKANSAS  
 License No. 06/06-5207

SUMMARY:

- o Non-cash assets were contributed to CMS as a capital contribution that were represented to be free and clear of liens and encumbrances. It is questionable as to whether this representation was correct. CMS attempted to obtain leverage from SBA based on this increase in capital.
- o Licensee transferred certain assets to an associate in exchange for stock which was represented to be non-restricted stock listed on NASDAQ. The stock is restricted and not listed on NASDAQ. The value of this stock is questionable.
- o We have attempted to obtain the source of the donated assets without success. Therefore, the matter has been referred to the Inspector General for investigation.

BACKGROUND:

- o CMS is a Specialized SBIC that was licensed on 3/14/79 and it has \$1.4 million in private capital and \$3.4 million in SBA leverage.
- o In June 1992, Licensee initiated two non-cash transactions with an associate (Central Arkansas Community Development Corporation) which were not consummated until September 1992:
  - It accepted a pool certificate backed by medical receivables valued at \$11.5 million and National Building Supply (NBS) stock valued at \$2.3 million as a contribution of non-cash assets which was represented as an increase in private capital.
  - Licensee received NBS stock valued at \$2.5 million for certain assets held by the Licensee which were reported by the Licensee to be of comparable value.
- o In October 1992, Licensee applied for \$6 million of leverage in the form of preferred stock based on the capital increase consummated in September 1992.
- o On December 8, 1992, Licensee:
  - Was reminded that, as a matter of policy, SBA does not leverage capital contributed in the form of non-cash assets until such assets are converted to cash.

- Was advised that an examination of the Licensee's operations ~~would be needed~~ before any leverage could be provided.
  - Was advised that approval of disposition of assets to an associate would be conditioned on the Licensee converting the NBS stock into \$2.5 million of cash within 120 days.
  - Was advised that the \$6 million leverage application was being returned.
- o On December 9, 1992, SBA agreed to accept a \$1.4 million leverage application based on the licensee's representation that:
- the medical receivables were free and clear of liens and encumbrances and
  - the licensee would dispose of the NBS stock received in exchange for Licensee assets within 120 days.
- o On March 11, 1993, the Examination report on the Licensee was issued. Among other things, the examiner was not able to determine the source of the donated assets. The examiner reported that there was a reluctance on the part of the Licensee's management to disclose any information concerning the source of the donated assets.
- o On March 26, 1993, an examination letter was sent advising the Licensee of the results of the examination and stating that the leverage application would not be processed until the regulatory matters were resolved. The letter also provided the Licensee another opportunity to explain the source of the non-cash assets.
- o On April 23, 1993, SBA received the Licensee's response to the Examination letter. Answers to questions concerning donated assets were not provided. Instead, the Licensee stated that they would reverse the transactions and that no explanation should be necessary.
- o On May 5, 1993, the matter was referred to the Office of Inspector General for investigation with the expectation that the source of the contributed assets will be identified. Licensee was advised that they were not responsive to the examination letter and that the matter had been referred to the Inspector General.

EB Exhibit 4  
 For ID 2d  
 10-31-95

CAPITAL MANAGEMENT SERVICES, INC.  
 LITTLE ROCK, ARKANSAS  
 License No. 06/06-5207  
 May 19, 1993

SUMMARY:

- o Non-cash assets were contributed to CMS as a capital contribution that were represented to be free and clear of liens and encumbrances. It is questionable as to whether this representation was correct. CMS attempted to obtain leverage from SBA based on this increase in capital.
- o Licensee transferred certain assets to an associate in exchange for stock which was represented to be non-restricted stock listed on NASDAQ. The stock is restricted and not listed on NASDAQ. The value of this stock is questionable.
- o We have attempted to obtain the source of the donated assets without success. Therefore, the matter has been referred to the Inspector General for investigation.
- o CMS did not make interest payments on two debentures. The Investment Division is scheduling a pre-liquidation meeting for May 21 at 10:00.

BACKGROUND:

- o CMS is a Specialized SBIC that was licensed on 3/14/79 and it has \$1.4 million in private capital and \$3.4 million in SBA leverage.
- o In June 1992, Licensee initiated two non-cash transactions with an associate (Central Arkansas Community Development Corporation) which were not consummated until September 1992:
  - It accepted a pool certificate backed by medical receivables valued at \$11.5 million and National Building Supply (NBS) stock valued at \$2.3 million as a contribution of non-cash assets which was represented as an increase in private capital.
  - Licensee received NBS stock valued at \$2.5 million for certain assets held by the Licensee which were reported by the Licensee to be of comparable value.
- o In October 1992, Licensee applied for \$6 million of leverage in the form of preferred stock based on the capital increase consummated in September 1992.
- o On December 8, 1992, Licensee:

- Was reminded that, as a matter of policy, SBA does not leverage capital contributed in the form of non-cash assets until such assets are converted to cash.
- Was advised that an examination of the Licensee's operations would be needed before any leverage could be provided.
- Was advised that approval of disposition of assets to an associate would be conditioned on the Licensee converting the NBS stock into \$2.5 million of cash within 120 days.
- Was advised that the \$6 million leverage application was being returned.

o On December 9, 1992, SBA agreed to accept a \$1.4 million leverage application based on the licensee's representation that:

- the medical receivables were free and clear of liens and encumbrances and
- the licensee would dispose of the NBS stock received in exchange for Licensee assets within 120 days.

o On March 11, 1993, the Examination report on the Licensee was issued. Among other things, the examiner was not able to determine the source of the donated assets. The examiner reported that there was a reluctance on the part of the Licensee's management to disclose any information concerning the source of the donated assets.

o On March 26, 1993, an examination letter was sent advising the Licensee of the results of the examination and stating that the leverage application would not be processed until the regulatory matters were resolved. The letter also provided the Licensee another opportunity to explain the source of the non-cash assets.

o On April 23, 1993, SBA received the Licensee's response to the Examination letter. Answers to questions concerning donated assets were not provided. Instead, the Licensee stated that they would reverse the transactions and that no explanation should be necessary.

o On May 5, 1993, the matter was referred to the Office of Inspector General for investigation with the expectation that the source of the contributed assets will be identified. Licensee was advised that they were not responsive to the examination letter and that the matter had been referred to the Inspector General.



- o On May 7, 1993, ID was advised that CMS has not made interest payments on two debentures:
  - \$14,867 was due on March 3 and
  - \$35,952 was due on March 17.
- o By letter of May 10, 1993, CMS was given 7 days to make payment.
- o On May 18, 1993, David Hale was called by the Account Executive concerning the non-payment. Mr. Hale stated that a check was in the mail for the \$14,867 and that he would have to sell assets to come up with the \$35,952. He advised that the check would be in the mail on May 19, 1993.
- o ID confirmed that there was enough in the account to cover the \$14,867 check; however, there would not be enough to cover the second check.
- o Our normal procedure is to transfer a licensee to liquidation when payments are not made in a timely manner.

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

## MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

DATE: August 9, 1993

TO: Erskine B. Bowles  
Administrator

FROM: Wayne S. Foren *Monte J. Tucker*  
Associate Administrator for Investment

SUBJ: Capital-Management Services, Inc.  
Little Rock, Arkansas  
License No. 06/06-5207

EB Exhibit 5  
For ID  
JL  
10-31-95

This is to inform you that there have been significant new developments concerning the above-referenced Specialized Small Business Investment Company (SSBIC) that may lead to a criminal indictment of the manager of the SSBIC, Mr. David Hale.

On August 1, 1993, the Office of Investment received a letter from the United States Attorney, Eastern District of Arkansas, concerning the Licensee's 1988 application for \$900,000 in SBA leverage. In connection with the application, the Licensee is alleged to have engaged in a series of bogus transactions that caused SBA to believe that the Licensee had increased its private capital by \$400,000 and that problem investments had been repaid. On the basis of the Licensee's false statements, SBA approved funding in the amount of \$900,000.

We understand that the U.S. Attorney met with Mr. Hale and his attorney on August 6, 1993 and presented him with a draft indictment alleging that Mr. Hale and two other individuals defrauded the United States (SBA) in 1988. SBA was sent a copy of the draft indictment. SBA personnel from the Investment Division and the Office of General Counsel will meet with the FBI and the U.S. Attorney in Little Rock on August 10, 1993 to discuss the evidence against Mr. Hale and the SSBIC with a view towards placing the SSBIC into receivership.

We have also been informed by the Assistant U.S. Attorney that the licensee made false statements--in a 1992 application for SBA leverage in the amount of \$6.0 million. The 1992 request for funds was not approved. Finally, the FBI and the U.S. Attorney are investigating the Licensee's 1986 and 1983 leverage applications to determine if fraud was involved.

*WSP*  
*151*  
*making*  
*8/20/93*

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

UNITED STATES OF AMERICA

VS.

DAVID L. HALE;  
CHARLES MATTHEWS; AND  
EUGENE FITZHUGH;

LR=CR-93-

) 18 U.S.C. §371  
) 18 U.S.C. §3013  
) 18 U.S.C. §3571

INDICTMENT

THE GRAND JURY CHARGES:

COUNT I

That from on or about the 3rd day of November, 1988, and continuing through on or about the 22nd day of November, 1988, in the Eastern District of Arkansas, defendants DAVID L. HALE, CHARLES MATTHEWS, AND EUGENE FITZHUGH, did conspire and agree together to commit offenses against the United States, that is in violation of 18 U.S.C. 1006, by agreeing to cause false entries in the books, reports, and statements of Capital-Management Services, Inc., a Small Business Investment Company, licensed by the Small Business Administration, in violation of 18 U.S.C. 645, by agreeing to cause false statements to be made to the Small Business Administration to influence its actions and to obtain money thereby, in violation of 18 U.S.C. 1001, by agreeing to conceal and cover up material facts in a matter within the jurisdiction of the Small Business Administration, an agency of the United States, and further agreed to defraud the United States.

It was a part of the conspiracy that defendant CHARLES MATTHEWS, then an employee of an investment firm would transfer

from an account held by said firm for a Louisiana Family, \$800,000.00 into another account at the firm in the name of Fitzhugh Foundation (defendant Eugene C. Fitzhugh), and the money would then be transferred in the sum of \$400,000.00 to Diversified Capital Investments (defendant David L. Hale), and would then be transferred to a savings account of Capital-Management Services, Inc., a Small Business Investment Company, principally owned by defendant DAVID L. HALE, and which company also would receive the other \$400,000.00 by way of cashier's checks purportedly in payment on certain problem loans made by the company to other entities in the past. DAVID L. HALE would then represent to Small Business Administration that he had invested \$400,000.00 into the company by virtue of a stock purchase with money his wife had obtained from the sale of real estate, as evidenced by \$400,000.00 now in the Capital-Management savings account, and the company would apply under the Small Business Investment Company Act, for \$900,000.00 from the Small Business Administration for the purpose of making loans to small businesses, the application showing, among other things, commitments to make a loan to "Corporations" in the sum of \$600,000.00 located at Mr. Matthews' home and office addresses.

It was also a part of the conspiracy that with the assistance of defendant, EUGENE C. FITZHUGH, defendant, DAVID L. HALE would then create and fund three transactions purportedly to Lame, Inc., River Valley Hydraulic and Supply, Inc., and McIntire Numismatic Auction, Inc., totaling \$800,000.00, with their entities, to in turn remit the money back to the account from which defendant

CHARLES MATTHEWS had originally transferred the \$800,000.00.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants in the Eastern District of Arkansas performed the following Overt Acts:

- 1.
- 2.

All in violation of 18 U.S.C. §371.

COUNT II

That on or about the 4th day of November, 1988, in the Eastern District of Arkansas, defendant, David L. Hale, willfully did make a statement knowing it to be false, for the purpose of influencing the actions of the Small Business Administration, in he represented his wife as the source of new capital he invested in Capital-Management Systems, Inc., his wife purportedly received the money from an August 14, 1988, sale of a small commercial center, wherein he knew that the source of funds was an account at a brokerage firm and the new "capital" was shown, all in violation of 18 U.S.C. §645.

COUNT III

That from on or about the 1st day of March, 1989, and continuing through on or about the 3rd day of March, 1989, in the Eastern District of Arkansas, defendants DAVID L. HALE, and CHARLES MATTHEWS, did conspire and agree together to commit offenses against the United States, that is in violation of 18 U.S.C. 1006, by agreeing to cause false entries in the books, reports, and



statements of Capital-Management Services, Inc., a Small Business Investment Company, licensed by the Small Business Administration, in violation of 18 U.S.C. 645, by agreeing to cause false statements to be made to the Small Business Administration to influence its actions and to obtain money thereby, in violation of 18 U.S.C. 1001, by agreeing to conceal and cover up material facts in a matter within the jurisdiction of the Small Business Administration, an agency of the United States, and further agreed to defraud the United States.

It was a part of the conspiracy that defendant CHARLES MATTHEWS, then an employee of an investment firm would transfer from an account held by said firm for a Louisiana family, \$275,000.00 into a bank account of Retail Factors, Inc., and this would be transferred to Capital-Management Services, Inc., a Small Business Investment Company, principally owned by defendant DAVID L. HALE, by way of cashier's checks purportedly in payment on certain loans made by the company to other entities in the past. DAVID L. HALE would then represent to Small Business Administration that in connection with the company's application under the Small Business Investment Company Act, for \$900,000.00 funding, that certain loans questioned by the Small Business Administration had been paid off or were current.

It was also a part of the conspiracy that defendant, DAVID L. HALE, would then create and fund a transaction with Liberty Mortgage Company in the sum of \$275,000.00 with it to in turn transfer the money back to the account which defendant CHARLES

MATTHEWS had originally transferred the \$275,000.00.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants in the Eastern District of Arkansas performed the following Overt Acts:

- 1.
- 2.

All in violation of 18 U.S.C. §371.

COUNT IV

That on or about the 29th day of May, 1988, in the Eastern District of Arkansas, defendant, DAVID L. HALE, willfully did make a statement knowing it to be false for the purpose of influencing the actions of the Small Business Administration in a Form 1031, that is that the financing as to Liberty Mortgage, Inc., was for working capital. All in violation of 15 U.S.C. §645.

A TRUE BILL.

\_\_\_\_\_  
FOREMAN

Prepared by:

\_\_\_\_\_  
FLETCHER JACKSON  
Assistant U.S. Attorney  
P.O. Box 1229  
Little Rock, AR 72203

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

DATE: September 21, 1993

TO: ~~Erskine~~ Bowles,  
Administrator

FROM: *Wayne*  
Wayne S. Foren,  
Associate Administrator  
for Investment

RE: Capital Management Services, Inc.  
Little Rock, Arkansas  
License No. 06/06-5207

EB Exhibit 6  
For 10-31-95

SBA was appointed receiver of Capital Management Services, Inc. (CMS) on September 15, 1993, by Court Order in Civil Action No. LR-C-93-646 in the U.S. District Court for the Eastern District of Arkansas, Western Division. SBA was appointed Receiver for the purpose of liquidating all of CMS' assets and satisfying the claims of CMS' creditors in the order of priority as determined by the Court. Judge David L. Hale, the president and a director of the licensee, consented to the receivership. Judgment was rendered against CMS in favor of the SBA for the sum of \$3,816,154.21 plus accrued interest, dividends and post judgment interest.

On Monday, September 20, 1993, Mark K. Stephens, Associate General Counsel, and Cecilia Seay, the Receiver's agent retained to liquidate CMS, closed the bank accounts of CMS (approximately \$3,200 remained in the bank accounts), seized the records of CMS, and are in the process of martialling the assets.

The U.S. Attorney's office informed Mr. Stephens that they are scheduled to make a presentation to the Grand Jury on Tuesday, September 21, 1993, at 3:00 p.m. and are expecting indictments to be returned on Tuesday or Wednesday, September 21 or September 22, 1993 against Judge Hale and two other individuals. Judge Hale's attorney, Mr. Coleman, has indicated that Judge Hale may step down from his position as a municipal judge if the indictment is returned against him.

Ownership and Management of the Licensee (as represented to SBA):

NAME	TITLE	% OF OWNERSHIP
David L. Hale	President/Director	82
Linda S. Hale*		9
Hazel Dennis		9
James Hall	Secretary/Director	
George Ivory	Vice President	

\* David Hale's wife.

SBA provided financing to CMS through the purchase/guarantee of three subordinated debentures totalling \$2,000,000 (\$500,000 dated November 30, 1983, \$1,000,000 dated September 8, 1986, and \$500,000 dated March 17, 1989) and the purchase of \$1,400,000 in preferred stock (\$500,000 in 1980, \$500,000 in 1986, and \$400,000 in 1989).

Failure to inform SBA of Capital Impairment is the violation stated in the Complaint. CMS is approximately 171% capitally impaired.

Per the last Financial Statement (SBA Form 468) submitted to the SBA dated September 30, 1992, CMS maintained a cash balance of \$51,819, and owned 15 notes and 7 equities with a total principal balance outstanding and valuation for the same sum of \$2,214,402. At September 20, 1993, approximately \$3,200 cash remained in the CMS bank accounts. The Office of Liquidation believes that many of the listed portfolio assets are questionable or do not exist.

cc: John T. Spotila  
Martin D. Teckler

EB Exhibit 7  
FOR ID 2L 10-31-95

CE NEW YORK

JAN MEYERS, KANSAS

# Congress of the United States

## House of Representatives

101st Congress

### Committee on Small Business

2501 Rayburn House Office Building

Washington, DC 20515-6115

November 4, 1993

Honorable Erskine Bowles  
Administrator, Small Business Administration  
09 Third Street, SW  
Washington, DC 20416

Dear Mr. Administrator:

The Committee has become aware of recent press articles about the failure of an Arkansas-based Specialized Small Business Investment Company, Capital Management Services, Inc. Apparently the failure of this company will result in a loss to the government on the leverage provided to it.

The press reports indicate that the company's activities are under investigation by the U. S. attorney's office and that several of the principals involved have been indicted.

Although we do not want to hinder or jeopardize criminal or agency investigations, the Committee is concerned about the alleged abuses of the SBIC program. Accordingly, in order to carry out our oversight responsibilities concerning programs administered by the Administration, we are requesting a full written report on Capital Management Services, Inc., including its licensing, private capital, ownership, SBA leverage, and individual financings made, including profit and loss statements.

It is requested that the report be provided to the Committee not later than November 15, 1993. In addition, the Committee may determine it to be appropriate to examine the Agency's files on this company and designate the Committee's Staff Director, Jeanne Roslanowick, and Committee Counsel, Tom Powers, as representatives of the Committee to be provided with a copy of the same pursuant to section 10(e) of the Small Business Act.

Thank you for your cooperation and assistance in this matter, and with best wishes, I am

Sincerely,



EBExhibit8  
FOI ID  
92-10-31-95U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

## NOTICE

The information contained herein has been determined to be confidential in nature and therefore not releasable to unauthorized parties. Disclosure of this information may violate Federal law (e.g., Privacy Act of 1974, the Right to Financial Privacy Act of 1978, and 18 U.S.C. § 1905). Utmost discretion should be exercised.

November 15, 1993

Honorable John J. LaFalce  
Chairman, Committee on Small Business  
Congress of the United States  
House of Representatives  
Washington, DC 20515-6315

Re: Capital Management Services, Inc.

Dear Chairman LaFalce:

I am pleased to provide the information you requested on November 4, 1993, regarding Capital Management Services, Inc. ("Capital Management"), a Specialized Small Business Investment Company ("SSBIC") located in Little Rock, Arkansas.

As general background, Capital Management was licensed by the Small Business Administration ("SBA") in 1979, and received total financial assistance of \$3.4 million from SBA during the period from September, 1983 through March, 1989. While monitoring Capital Management in the fall of 1992 in connection with a request for additional leverage, SBA began to suspect regulatory violations by the SSBIC. SBA required Capital Management to provide further information about its portfolio of investments, and then in October, 1992 and December, 1992, SBA denied Capital Management's requests for the additional financing.

In the review process, SBA became aware of serious potential regulatory problems relating to Capital Management. Accordingly, SBA commenced an audit of the SSBIC for the 24 month period ending November 30, 1992. As a result of the audit report, issued in

Memorandum dated 11/15/93  
November 15, 1993 -- Page 2

March of 1993, SBA referred the case to the Office of Inspector General ("IG") for investigation. The IG, in turn, made a referral to the Federal Bureau of Investigation ("FBI") for further inquiry. SBA officials traveled to Arkansas and met with the FBI and the local Assistant United States Attorney in order to review the records of Capital Management. This joint effort uncovered additional regulatory violations by Capital Management. SBA then moved for and obtained appointment as receiver ("Receiver") for Capital Management pursuant to an Order entered by the United States District Court for the Eastern District of Arkansas, Western Division, on September 15, 1993. (United States of America v. Capital Management Services, Inc., Civil Action No. LR-C-93-646 (Eisele, J.))

The Receivership was instituted for the purpose of administering and controlling Capital Management, making inquiry into regulatory compliance, liquidating all of Capital Management's assets, satisfying the claims of creditors therefrom, and pursuing all causes of action available to Capital Management against third parties. SBA is authorized to act as a receiver of an SSBIC under Section 311 of the Small Business Investment Act of 1958, as amended ("Act"), 15 U.S.C. § 687c.

The following is a point by point response to the specific inquiries in your letter:

#### SSBIC License

Capital Management was issued an SSBIC license by SBA on March 14, 1979 under Section 301(d) of the Act, 15 U.S.C. § 681(d). SSBICs licensed under Section 301(d) of the Act are permitted to fund only those concerns owned by socially or economically disadvantaged persons.

#### Ownership

According to SBA's files, Capital Management is currently owned by David L. Hale 82%, Linda Sue Hale (David Hale's wife) 9% and Hazel Dennis (David Hale's sister) 9%.

#### Private Capital

As required by Section 302 of the Act, 15 U.S.C. § 682, Capital Management was initially capitalized with \$152,500 in "Private Capital", as defined in SBA's regulations ("Regulations") at 13 C.F.R. § 107.3. Please note that the minimum requirement for "Private Capital" has been amended since the time Capital

NOVEMBER 15, 1993 -- Page 3

Management was licensed. Subsequently, Capital Management's private paid-in capital increased to \$500,500 in March of 1980, to \$1,006,310 in June of 1986 and to \$1,406,310 in December of 1988.

#### SBA Leverage

The total amount of SBA financial assistance provided to Capital Management to date is \$3.4 million. In accordance with Section 303(b) of the Act, 15 U.S.C. § 683(b), SBA provided financing to Capital Management through the purchase or guarantee of three subordinated debentures issued by Capital Management in the total principal amount of \$2,000,000. The three financings were made in November, 1983; September, 1986; and March, 1989. The SBA also provided financing to Capital Management through the purchase of a total face amount of \$1,400,000 in preferred stock issued by the Company in three separate financings in March, 1980; May, 1986; and March, 1989. The SBA is authorized to purchase preferred securities of SSBCs pursuant to Section 303(c) of the Act, 15 U.S.C. § 683(c).

#### Portfolio Financings

You have requested details regarding Capital Management's financings to individual small business concerns. These SBIC financings were not SBA approved investments, since SBA does not select or approve small businesses which SBICs choose to finance. Individual financing decisions are made by the SBICs, without prior consultation with SBA. We are not in a position at this time to give you details about individual financings by Capital Management.

As Receiver, SBA is marshalling all of Capital Management's assets and property and gathering and reviewing all of its documents, books, records and files. Since its appointment as Receiver, SBA has been operating pursuant to a liquidation directive. New financings are not being made by Capital Management. The Receiver has retained a Principal Agent, Cecilia R. Seay, who is experienced in SBIC liquidation, has served as an agent for other receiverships, has interviewed and deposed numerous individuals, and has general awareness of SBIC regulations and corporate duties in the State of Arkansas. We are in the process of retaining accountants to follow the flow of funds from Capital Management. All of Capital Management's individual financings are being reviewed, with more information being obtained daily. Once the information is available, we will review it to assess what details we can make available to you.

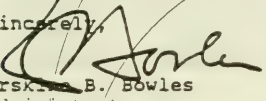
As additional background, I am attaching further information relating to Capital Management. If you like, SBA representatives

Erskine John F. Bowles  
November 18, 1993 -- Page 4

can meet at a mutually convenient time with Tom Powers, Jeanne Roslanowick, or any other of your designated representatives to clarify this information.

I look forward to working closely with you and the Small Business Committee as we proceed.

Sincerely,



Erskine B. Bowles  
Administrator

Attachments

EBB/s



## List of Attachments

1. Small Business Administration License Application, SBA Form 415, for Capital Management Services, Inc. dated September 18, 1978.
2. David L. Hale's Statement of Personal History and Qualification of Management, SBA Form 415A, ~~dated July 31, 1979.~~
3. Schedule entitled "Changes in Private Capital and/or Operator for Capital Management Services, Inc."
4. Schedule entitled "Leverage Received from SBA By Capital Management Services, Inc."
5. Annual Report, SBA Form 468s, for Capital Management Services, Inc. for 1979 to 1992.
6. List of Financings by Capital Management Services, Inc. to Small Businesses Recorded between Calendar Years 1980 and 1993 based on Portfolio Financing Reports, SBA Form 1031s, by year of financings.
7. List of Financings by Capital Management Services, Inc. to Small Businesses (SBC) Recorded between Calendar Years 1980 and 1993 based on Portfolio financing Reports, SBA Form 1031s, by name of SBC.
8. All Portfolio Financing Reports, SBA Form 1031, submitted by Capital Management Services, Inc.
9. Audit Reports for Capital Management Services, Inc. dated 1979, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1989, 1991, 1993.
10. Memorandum Referring Capital Managements Services, Inc. to Inspector General for Investigation from Associate Administrator of Investment dated May 5, 1993.
11. Complaint for Receivership: United States of America v. Capital Management Services, Inc. Civil Action No. LR-C-93-646, filed in the U.S. District Court for the Eastern District of Arkansas Western Division, filed September 14, 1993, includes Stipulated Settlement and resulting Order dated September 15, 1993.
12. Indictment of David L. Hale, Charles Matthews, and Eugene Fitzhugh, ~~filed in the U.S. District Court for the Eastern District of Arkansas, September 23, 1993.~~





## U.S. SMALL BUSINESS ADMINISTRATION

## FAX TRANSMISSION SHEET

Date: 4-16-93 Time: 3:20 p.m.

## WARNINGS:

PROTECTED UNDER THE PRIVACY ACT, 5 U.S.C., 552a. Unauthorized Disclosure Prohibited Under Penalty of Law. If Recipient Is Not As Identified On Cover Sheet, Make No Further Disclosure And Telephone Transmitter For Instructions On Return Of Materials.

Be Aware Fax Machines Using Thermal Paper Produce An Unstable Image Which Will Deteriorate. Copy Messages Onto Plain Paper Prior To Filing As A Record!!

## YOU MUST FILL IN ALL FIELDS

SUBJECT: CAPITAL MANAGEMENT Total Pages + Cover = 5Person's  
Full Name

Office, Firm

FAX Number

Voice Number

TO: NEIL EGGLESTON, ESQ. OFFICE OF 202-456-1647 202-456-7  
WHITE HOUSE COUNSELFROM: John T. SPOTILA, ESQ. S.B.A. 202-205-6846 202-205-671

## Optional Message:

## ATTENTION RECEIVING PARTIES

Immediately call CHERYL at 205-6713 If any FAX transmission is incomplete or if multiple copies are received.

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Receipt Time: \_\_\_\_\_



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

(202) 705-6642



General Counsel

November 16, 1993

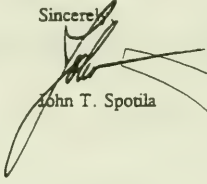
HAND DELIVERED

Neil Eggleston, Esquire  
Associate Counsel  
Office of the White House Counsel  
The White House  
Washington, DC 20416

Dear Neil:

Enclosed is a copy of Erskine's letter yesterday to Chairman LaFalce (with confidential attachments).

Sincerely,

  
John T. Spotila

JTS/s

Attachments

5673

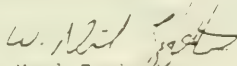
November 20, 1993

John T. Spotila, Esq.  
General Counsel  
U.S. Small Business Administration  
Washington, D.C. 20416

Dear John:

Enclosed please find the attachments to the public report from Administrator Bowles to Chairman LaFalce, House Committee on Small Business, that the Small Business Administration provided earlier this week. In view of the fact that the attachments themselves, although delivered to the House committee, were not made public, I am returning them.

Very truly yours,



W. Neil Eggleston  
Associate Counsel to the President  
(202, 456-7901)

E-Exhibit 11

FOIA ID

92-10-31-95

JOHN J. LAFALCE New York  
Chairman

pm. 3/10 5061

JAN MEYERS

## Congress of the United States

OFFICE OF THE CLERK

House of Representatives Nov 21 1 54 PM '93

101st Congress

Committee on Small Business

3101 Rayburn House Office Building

Washington, DC 20515-6315

November 22, 1993

SBIC

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cc:

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CH

Honorable Erskine Bowles  
Administrator, U.S. Small Business Administration  
409 Third Street, S.W.  
Washington, D.C. 20515

Dear Administrator Bowles:

My legal staff on the Committee on Small Business has reviewed the documents you provided to the Committee regarding the Arkansas-based Specialized Small Business Investment Company, Capital Management Services, Inc. I appreciate your efforts to provide the Committee with full documentation of your investigative efforts and hope we can count on your continued cooperation with the Committee's own oversight efforts.

With that in mind, I request that the U.S. Small Business Administration provide the Committee with further documentation concerning the activities of Capital Management Services, Inc. Specifically, I request:

1) Copies of all of the loan or financing applications for any and all loans disbursed or financings arranged by Capital Management Services, Inc. In addition, all loan files and supporting documents maintained by Capital Management Services, Inc., including, but not limited to, financial reports from the small business concerns financed.

2) Copies of any and all correspondence from either State or Federal officials, elected or unelected, received by or forwarded to the U.S. Small Business Administration regarding Capital Management Services, Inc. These documents shall include any correspondence regarding the regulatory/supervisory activities of the SBA in relation to Capital Management Services, Inc., including, but not limited to, any correspondence, supporting otherwise, regarding the original license application of Capital Management Services, Inc.

RECEIVED

NOV 22 1993

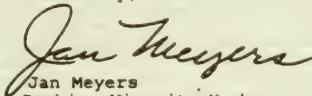
-2-

3) Copies of all documentation concerning changes in ownership, changes in the Board of Directors, changes in the participation in the conduct of the affairs, and the raising of private capital, at Capital Management Services, Inc. These documents shall include an accounting of the sources of this private capital and the financial statements of all investors and board members.

4) Records of the Central Arkansas Certified Development Company regarding its acquisition and subsequent donation of capital to Capital Management Services, Inc. These documents shall include, but not be limited to, documentation of the source of any medical accounts receivable from Thompson Memorial Medical Center and/or any stock from National Building Supply or any other publicly traded corporation.

I appreciate your responsiveness to the Committee's previous requests and your willingness to assist the Committee in its efforts to fulfill its oversight responsibilities. I would appreciate a response to this request no later than December 1, 1993. As always, this information will be kept in confidence so as not to jeopardize any of the pending investigations.

Sincerely, \_\_\_\_\_



Jan Meyers  
Ranking Minority Member  
Committee on Small Business

cc: Hon. John J. LaFalce



EB Exhibit 12

FOR ID

JL  
10-31-95JL  
10-31-95

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



December 14, 1993

Honorable John J. LaFalce  
Chairman, Committee on Small Business  
Congress of the United States  
House of Representatives  
Washington, D.C. 20515-6315

Re: Capital Management Services, Inc.

Dear Chairman LaFalce:

With regard to Capital Management Services, Inc. ("CMS"), we have reviewed your letter of November 17, 1993, and Congresswoman Meyers' letter of November 22, 1993, with representatives from your staff, the General Accounting Office ("GAO"), and the Department of Justice. SBA is pleased to report that an agreement has been reached whereby the SBA, as receiver for CMS, can provide to the Committee documents related to the CMS receivership. I would like to take this opportunity to clarify the record regarding the receivership documents and all other CMS related documents you have requested.

On December 7, 1993, the FBI requested and obtained SBA's original central office CMS files, including the license file, operations files, loan files, miscellaneous files, and the 1990-1993 examination work papers. SBA received two copies of these files back from the FBI late in the day on December 9, 1993, and promptly gave one copy to GAO. An additional copy now has been made and is being delivered to you with this letter.

Included in the enclosed documents are copies of our CMS examination reports, but not copies of all the work papers relating to them. SBA has requested examination work papers relevant to the CMS examination reports since 1980 from the SBA field offices where they are housed, and will provide copies to you upon your request. Please recognize that the examination work papers are lengthy and voluminous. I would suggest that your Committee staff or the GAO review the work papers prior to copying them in order to determine if a complete set is necessary for the Committee or GAO.


After SBA was appointed receiver of CMS, agency officials and the receivership agent obtained twelve (12) boxes of original documents and other materials which constituted CMS's records. The documents obtained from CMS included approximately sixty (60) portfolio files, cancelled checks, bank statements, books, records, copies of CMS audits, receipts and expense information, general correspondence, trial balances, deposit slip books, phone bills, income tax information, ledgers, and other information.

After review of the initial materials, SBA identified and obtained additional documents from Mr. Hale's attorney. All of these materials were then delivered to the FBI, which has now returned to us a full set of copies and/or originals.

SBA's copy of the receivership portfolio files and related materials will be made available to the GAO during the week of December 13, 1993, in Little Rock. Please have your staff review the list of CMS receivership documents described above and advise me if you would like copies of any specific items. The original documents remain in the possession of the FBI in Little Rock and access to them must be arranged through the FBI.

Since the inception of the receivership, SBA has cooperated fully with the FBI, the United States Attorney's Office in Little Rock, and the special prosecutor team, in reviewing CMS' transactions. We will continue to do so. At the same time, SBA continues to pledge to the Committee its complete cooperation in connection with this matter. Please let me know if you have any questions or would like any other assistance from us.

Very truly yours,

  
Erskine B. Bowles  
Administrator

Enclosures

EB Exhibit 13  
 FOR W  
 GR 10-13-95



U.S. SMALL BUSINESS ADMINISTRATION  
 WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

JAN 18 1994

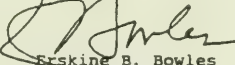
Honorable John J. LaFalce  
 Chairman, Committee on Small Business  
 House of Representatives  
 Washington, D.C. 20515-6315

Dear Chairman LaFalce:

I am writing to supplement my letter of December 14, 1993, regarding the Capital Management Services, Inc. ("CMS") receivership documents. Your staff counsel asked us to provide a detailed listing of the documents we obtained from CMS. To do so, we are enclosing a copy of the itemized receipts we obtained for these documents and materials when we provided them to the FBI as well as a copy of a receipt given to Mr. Hale's attorneys by the FBI. We now have obtained copies, or the originals, of all of those documents and materials and made them available to the General Accounting Office investigators.

I also am enclosing a copy of the CMS files on Masters Marketing, Campobello Realty, Castle Water and Sewer and Southloop Construction, as requested by your staff. Please have your staff counsel contact Mark Stephens of our General Counsel's Office at (202) 205-6860 if they have any further questions about these matters.

Sincerely,

  
 Erskine B. Bowles  
 Administrator

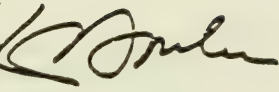
Enclosures



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

MEMORANDUM

TO: Martin Teckler  
FROM: Erskine Bowles   
DATE: March 3, 1994  
SUBJECT: Capital Management Co.

I am recusing myself from all involvement in the SBA's ongoing investigation into Capital Management.

My instructions to you and others since this investigation began still stand. These instructions are:

1. Undertake the Capital Management investigation in the same vigorous manner you would any other investigation of an SSBIC. If you find any evidence of fraud or abuse, you should take every appropriate step to prosecute the person or persons who have perpetrated this malfeasance; and
2. The SBA should provide Chairman LaFalce with any relevant information that he requests. This information should be provided as soon as possible after the request is received.

AD 940328019

F-MEYERS



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

EB Exhibit 15  
FOR ID  
2210-31-95

April 11, 1994

Honorable Jan Meyers  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congresswoman Meyers:

This is in response to your March 23, 1994 inquiry regarding my recusal from involvement in the Capital Management Services matter.

Throughout my tenure as Administrator of the Small Business Administration direct responsibility for the handling of all aspects of the investigation of and prosecution of any SBIC or SSBIC suspected of wrongdoing have been delegated to the career Investment Division and Office of General Counsel personnel who normally are involved in such cases. Capital Management has been treated in the same manner as all such other cases. I have never reviewed the Capital Management file.

It has been my practice at the SBA to recuse myself from any situation where there could be asserted even the remotest hint of a conflict of interest or perception of impropriety. To avoid even the appearance of impropriety, I verbally advised my staff in the late fall of 1993 that I intended to separate myself, even more thoroughly than an Administrator normally would be in an SBIC legal matter, from all aspects of the Capital Management matter. At the same time, I firmly instructed each of the staff that they were to pursue the investigation and prosecution of this matter vigorously, and that they were to cooperate fully, completely and quickly with any governmental agency investigating or prosecuting this matter.

On March 3, 1994 I memorialized my prior recusal in a memorandum to our Deputy General Counsel, who is our ethics officer as well as the career staff member who has been supervising our management of the Capital Management case from a legal perspective. I previously have provided a copy of that memorandum to the staff of the House Small Business Committee. A copy is attached to this letter for your information.

Very truly yours,

Erskine B. Bowles  
Administrator

Attachment



**DEPOSITION OF LAURA JEAN LEWIS  
IN RE: S. RES. 120**

---

**VOLUME II**

---

**TUESDAY, OCTOBER 31, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of LAURA JEAN LEWIS, called for further examination pursuant to agreement by counsel, at 9:45 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
H. CHRISTOPHER BARTOLOMUCCI, Esq.  
Majority Associate Special Counsel  
RICHARD BEN-VENISTE, Esq.  
Minority Special Counsel  
TIMOTHY P. MITCHELL, Esq.  
Democratic Professional Staff Member  
JOANNE WILSON, Esq.  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

MICHAEL S. FORSHEY, Esq.  
Butler & Binion, L.L.P.  
750 North Saint Paul  
Suite 1800  
Dallas, Texas 75201  
On behalf of the Deponent.

**APPEARANCES**

**MARK M. LEVIN, Esq.**  
**Landmark Legal Foundation**  
**1634 I Street, NW**  
**Suite 906**  
**Washington, DC 20006**

## CONTENTS

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Errata .....	5806

INSTRUCTIONS NOT TO ANSWER, CERTIFIED QUESTIONS;  
PAGES 297, 298, 345, AND 346.

## EXHIBITS

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DEPOSITION NUMBER	IDENTIFIED
Exhibit TS0357 .....	355, 5808
Exhibit TS1092 .....	356, 5809
Exhibit 6713 .....	363, 5810
Exhibit 6919 .....	364, 5811
Lewis Exhibit 1 .....	389, 5812
Lewis Exhibit 2 .....	412, 5814
Exhibit 6870 .....	434, 5830
KBK Exhibit 48 .....	443, 5851

## P R O C E E D I N G S

Whereupon,

L. JEAN LEWIS

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

## EXAMINATION (Continued)

BY MR. BEN-VENISTE:

Q You are still under oath, you understand?

A Yes, sir.

Q First let me ask whether you have ever used a telephone calling card.

A Yes.

Q And did you have a calling card in either 1992 or '93?

A Yes.

Q Did you utilize that calling card during those years?

A Yes.

Q Have you produced the records reflecting calls made on that calling card?

A To the extent that calls were made to those area codes, yes, sir.

1 Q What was the calling card number, do you  
2 recall?

3 A The most recent one that I had was my home  
4 phone number --

5 Q Which is what?

6 A -- with an additional four-digit pin.

7 Q What was that?

8 MR. GIUFFRA: Can we just stop for a  
9 second. I don't know if we want Ms. Lewis's home  
10 number on this transcript which will then suddenly be  
11 made available.

12 MR. BEN-VENISTE: We can block it out when  
13 it is made available, as we have done with other  
14 witnesses.

15 MR. FORSHEY: This is an old phone number,  
16 not a current phone number.

17 BY MR. BEN-VENISTE:

18  
19

20 Q The pin number?

21 A Was an additional 4.

22 Q Do you remember what it was?

1 A Yes, sir. It was just one additional 4 on  
2 the end of my phone number.

3

4 Q What period of time did you have that  
5 number?

6 A I believe -- actually, Mr. Ben-Veniste, I  
7 think that was a changed phone number after my  
8 husband and I married. So that was the most recent  
9 card I had, but that would not have fit the '92-93  
10 time frame.

11 Q What was your calling card number during  
12 that period?

13 A I don't recall what the number was prior to  
14 that one.

15 MR. BEN-VENISTE: I don't recall having  
16 seen those records. Mr. Forshey may be able to  
17 enlighten us as to whether those have been produced.

18 MR. FORSHEY: It is my understanding  
19 Ms. Lewis requested all of her records from  
20 Southwestern Bell. To the extent they exist and have  
21 been provided by Southwestern Bell, we have provided  
22 them to you.



1 MR. BEN-VENISTE: We don't know whether the  
2 calling card records specifically have been provided,  
3 I take it?

4 MR. FORSHEY: I do recall specifically on  
5 one bill. I can't tell you which one it is. The  
6 calling card records are actually reflected on the  
7 home telephone records.

8 MR. BEN-VENISTE: If there is some problem,  
9 we will get back to you and check on that.

10 BY MR. BEN-VENISTE:

11 Q Similarly, with respect to the February 2nd  
12 tape-recording, side A, as you have indicated,  
13 contains other material taped on February the 2nd.  
14 You did not retain a copy of the side A of your tape?

15 A That's correct.

16 Q And you have made a request of Independent  
17 Counsel for that?

18 A Yes, sir.

19 Q Now, with respect to your destruction of  
20 the tape-recorder that made the tape, did you tell  
21 Independent Counsel or anyone else in February of  
22 1994 that you had destroyed the tape-recorder?

1 MR. FORSHEY: Counsel I'm going to object  
2 to the use of the word "destruction." I don't think  
3 that reflects her testimony. I think she indicated  
4 she discarded it.

5 BY MR. BEN-VENISTE:

6 Q What did you do with it?

7 A I threw it away in a trash can. I  
8 discarded it.

9 Q At your home?

10 A Yes.

11 Q Did you tell anyone in February of 1994  
12 that you had discarded the tape-recorder?

13 A Not that I recall.

14 Q Did you tell anybody in March of 1994 that  
15 you had discarded the tape-recorder?

16 A Yes, I believe so.

17 Q Who did you tell?

18 A I advised the Independent Counsel's  
19 office.

20 Q When do you recall having done so?

21 A I believe I did so when I met with them on  
22 March 15, 1994.

1 MR. FORSHEY: For the record, I will  
2 caution the witness, it is my understanding that  
3 communications between this witness and the  
4 Independent Counsel are not supposed to be the  
5 subject of these depositions, nor were they subject  
6 of the request.

7 To the extent the questions attempt to  
8 elicit that, I certainly would admonish the witness  
9 not to provide those direct communications.

10 BY MR. BEN-VENISTE:

11 Q What I'm interested in is whether in fact  
12 such a communication by Ms. Lewis was made, not  
13 whether it was elicited. You have indicated earlier  
14 that you did not tell the Independent Counsel that  
15 you had made a tape until subsequent to that  
16 meeting. Is your recollection now refreshed that you  
17 told them you made a tape on March 15th?

18 A Yes, sir, it is. As soon as I had answered  
19 that last question, I recalled that it was shortly  
20 after that meeting when I spoke with an FBI agent  
21 regarding the taping that the question was made and I  
22 responded to it and told her it had been discarded.

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1 Q Now I'm a little confused. You are saying  
2 now that you recall that you didn't advise  
3 Independent Counsel on March 15th that you had  
4 discarded the tape-recorder?

5 A That's correct.

6 Q And when is it that you do recall having  
7 advised them?

8 A I advised them during such conversation as  
9 I had with the FBI agent with whom I discussed the  
10 circumstances surrounding the taping.

11 Q When was that? That's my question.

12 A I believe there is a document that reflects  
13 that, if I could have access to my file.

14 Q Mr. Forshey can give you anything from your  
15 file that he would like to help you. I am asking  
16 whether you recall.

17 MR. FORSHEY: Without the document, do you  
18 recall?

19 THE WITNESS: Not specifically, no.

20 BY MR. BEN-VENISTE:

21 Q But it was in the telephone conversation?

22 A Yes, sir.

- 1 Q And it was with an FBI agent, you have  
2 indicated?
- 3 A Yes, sir.
- 4 Q Is that at the same time that you told the  
5 FBI agent for the first time that you had made a  
6 tape?
- 7 A Yes, sir.
- 8 Q That occurred sometime between March 15th  
9 and March 30th when you sent the tape along?
- 10 A That's correct.
- 11 Q Do you recall whether Mr. Iorio escorted  
12 Ms. Breslaw to your office on the 2nd or whether she  
13 arrived on her own?
- 14 A She arrived on her own.
- 15 Q You are sure of that?
- 16 A Yes, sir.
- 17 Q And when she walked into the office, you  
18 said, come in, come in? When she appeared at the  
19 doorway, you said "come in, come in"; correct?
- 20 A Correct.
- 21 Q And then what happened?
- 22 A As best I recall, I walked around to the

- 1 back of my desk and took a seat. Ms. Breslaw stayed  
2 standing in front of my desk, where we spoke for a  
3 few minutes, and then an issue was raised with regard  
4 to a particular document.
- 5 She walked around behind my desk and we  
6 observed this document at the same time. I was  
7 looking up talking to her, she was looking down  
8 talking to me.
- 9 It was during that exchange I remember  
10 seeing the tape-recorder on, and I suggested we sit  
11 on the other side of the desk.
- 12 Q And you suggested that you both sit on the  
13 other side of the desk?
- 14 A Yes, sir.
- 15 Q So that you would be looking at each other  
16 and not across your desk where the tape-recorder had  
17 its red light on?
- 18 A So that I wouldn't be craning my neck  
19 looking up at her and so that she would not see the  
20 tape-recorder, yes, sir.
- 21 Q Why would you be craning your neck if she  
22 sat on one side of the desk in the visitor's chair

1 and you sat in your regular desk chair?

2 A I'm sorry. I was thinking back to the fact  
3 that she was standing next to me and we were having  
4 the conversation and at that point I suggested we  
5 both go and sit on the other side so we would both be  
6 more comfortable.

7 Q Under that arrangement, she would not be  
8 looking across the desk at you in direct line of the  
9 tape-recorder?

10 A That's correct.

11 Q Did that enter your mind?

12 A Absolutely.

13 Q So, it was for that purpose, in addition to  
14 not craning your neck if she would continue standing  
15 during the entire duration of the meeting, that you  
16 suggested that you both sit on the same side of the  
17 desk?

18 A That's correct.

19 Q Now, you indicated in your prior testimony  
20 before the House that you didn't like the tone of the  
21 conversation, and therefore, although the  
22 tape-recorder was on inadvertently, you made the

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1 conscious decision that you would continue to tape  
2 Ms. Breslaw; correct?

3 A Correct.

4 Q And what was there about the tone of the  
5 conversation, Ms. Lewis, up to that point that  
6 convinced you that you wanted to tape it?

7 A The fact that in her opening statement, she  
8 identified that she did not believe these were  
9 "normal circumstances," and the obvious immediacy of  
10 her concerns with regard to the questions that the  
11 people at the top were being asked.

12 Q And that was the tone that you objected to?

13 A Yes. I would call that the tone.

14 Q Did she seem to be overbearing in some way?

15 A She seemed rather strident.

16 Q And you felt that she was going to ask you  
17 to do something inappropriate?

18 A I didn't know what she was going to do.

19 Q Did you have that feeling?

20 A I had a sense of discomfort with her  
21 opening comment.

22 Q Let me ask you whether you said anything,



1 knowing that the tape-recorder was on, that you  
2 intended to elicit from her by way of whether she  
3 would make any inappropriate remark to you?

4 MR. FORSHEY: I didn't understand your  
5 question, Counsel.

6 BY MR. BEN-VENISTE:

7 Q Knowing that you had the advantage of  
8 tape-recording the conversation and she did not know  
9 the tape-recorder was on, do you feel that you asked  
10 her anything or brought up anything that might elicit  
11 any improper direction from her?

12 A No, sir.

13 Q Did you want to explore whether she was  
14 going to make any improper direction to you?

15 A No, sir.

16 Q In your opening remarks to the House, you  
17 indicated that Ms. Breslaw, and I can quote it for  
18 you if you need me to do that back but I'm  
19 paraphrasing now, you indicated that Ms. Breslaw  
20 conveyed to you the fact that the top people at the  
21 agency would like to say that Whitewater did not  
22 cause a loss to Madison; is that correct?

1 A Yes, sir.

2 Q But you left out the part where Ms. Breslaw  
3 prefaced that thought with the notion that the people  
4 at the top would like to be able to say it honestly;  
5 do you remember that?

6 A I remember I did not incorporate the  
7 entirety of the quote into my testimony.

8 Q Was there some reason why you felt that you  
9 would be accurate if you left out the part about  
10 honesty?

11 A I utilized the quotation to best exemplify  
12 my thoughts, my feelings and my reasons on the  
13 subject.

14 Q Well, let me ask you again whether you felt  
15 that you would be fairly communicating what  
16 Ms. Breslaw said to you if you left out the part  
17 about the top people wanting to be able to say  
18 something if they could say it honestly.

19 A Yes.

20 Q And that was a conscious decision on your  
21 part?

22 A That's correct.



1 Q In addition to your testimony before the  
2 House of Representatives in open session, have you  
3 testified in any other forum, putting aside any grand  
4 jury that you may have testified before, prior to  
5 today?

6 MR. FORSHEY: Is that relating to Madison?

7 MR. BEN-VENISTE: Relating to Madison in  
8 the first instance.

9 THE WITNESS: Aside from the House hearings  
10 and grand jury testimony, no, sir.

11 MR. FORSHEY: And of course there were  
12 interviews associated with the House testimony.

13 BY MR. BEN-VENISTE:

14 Q Were those under oath?

15 A No, sir.

16 Q Were they verbatim transcripts?

17 A No, sir, I don't believe so.

18 Q Prior to your testimony about Madison, have  
19 you ever testified in any proceeding?

20 A Yes, sir.

21 Q On approximately how many occasions?

22 A I don't recall the exact number.

1 Q Approximately. I didn't ask you for the  
2 exact number.

3 A That is a very difficult approximation.

4 Q Five, 10, 20, in that range? 100?

5 A Approximately two dozen.

6 Q Now, putting aside those in which you  
7 testified in connection with your official capacity  
8 as a criminal investigator for the RTC, about how  
9 many times have you testified?

10 A The response would be the same.  
11 Approximately two dozen is my best guess.

12 Q So you never testified in your official  
13 capacity at the RTC?

14 A No, sir, not that I recall.

15 Q What were the types of matters that you  
16 testified in before?

17 A I testified in a federal criminal trial of  
18 a savings and loan owner in Texas, and I testified  
19 under numerous depositions in civil proceedings for  
20 my former employer, Sunbelt Savings.

21 Q You testified as a fact witness in the  
22 criminal case?

- 1 A I was called as a custodial witness in that  
2 case.  
3 Q And in the prior proceedings relating to  
4 your work in a bank, is that what you are referring  
5 to?  
6 A Yes, sir.  
7 Q Have you testified in any other proceeding?  
8 A Other than grand jury, yes, sir, I have.  
9 Q And what was the nature of that  
10 proceeding?  
11 A A deposition that related to my divorce.  
12 Q Now, I don't want to get into your divorce  
13 proceeding per se. You say it related to your  
14 divorce. Was that in connection with the divorce  
15 proceeding itself?  
16 A Yes, sir, it was.  
17 Q Was there a fraud trial associated with  
18 some business matters in which you or your former  
19 husband was involved?  
20 A A fraud trial?  
21 Q A fraud proceeding.  
22 A It was either a NASD or an SEC proceeding
- 

- 1 in which my husband was involved, yes.  
2 Q Were you ever called to testify?  
3 A No, sir.  
4 Q Were there any allegations made in  
5 connection with that general matter that you had made  
6 false or misleading statements?  
7 A No, sir.  
8 Q Were there any complaints made, to your  
9 knowledge?  
10 A No, sir, not to my knowledge.  
11 Q What was the title of that proceeding, do  
12 you recall?  
13 A No. I'm sorry, I don't.  
14 Q What was the name of your husband's  
15 company?  
16 A Gillespie & Holland.  
17 Q Where was that located?  
18 A Dallas, Texas.  
19 Q Was the nature of the SEC proceedings  
20 basically that false and misleading statements had  
21 been made to investors?  
22 MR. FORSHEY: Counsel, I'm going to stop

1 you here. Ms. Lewis has already testified she wasn't  
2 involved in it, no allegations were made against  
3 her. This was a former husband of hers. I don't see  
4 it has any basis of relevance to go into what charges  
5 were made against her husband. I will ask you to  
6 move on.

7 BY MR. BEN-VENISTE:

8 Q What year was it?

9 A I believe it was either 1989 or 1990.

10 Q What was the nature of the allegation?

11 MR. FORSHEY: Counsel, I am going to  
12 instruct the witness not to answer at this point.

13 MR. BEN-VENISTE: You are instructing her  
14 not to answer?

15 MR. FORSHEY: Correct.

16 MR. BEN-VENISTE: To 1989?

17 MR. FORSHEY: Correct.

18 MR. BEN-VENISTE: You are objecting on  
19 the --

20 MR. GIUFFRA: We are going beyond -- you  
21 are asking her about a proceeding against her  
22 husband?

1 MR. BEN-VENISTE: You are directing her not  
2 to answer?

3 MR. FORSHEY: That's correct.

4 MR. BEN-VENISTE: Mark that, please.

5 BY MR. BEN-VENISTE:

6 Q When you were first assigned to the Madison  
7 investigation, Ms. Lewis, can you tell us whether you  
8 did any investigation or made any inquiry as to what  
9 any federal agency had done about investigating  
10 Madison before?

11 A No, sir. I initiated a new investigation  
12 on behalf of RTC criminal investigations.

13 Q And you never sought to find out what had  
14 been the prior history of the investigation of  
15 Madison or its principals?

16 A During the course of my investigation, I  
17 came to learn some of that information.

18 Q And what did you learn?

19 A That James McDougal had previously been  
20 tried in, I believe 1990, along with his former  
21 wife's three brothers.

22 Q And what else did you learn?

1 A There were three preexisting criminal  
2 referrals that had been submitted to the United  
3 States Attorney's Office.

4 Q What was the nature of those criminal  
5 referrals?

6 A The only one I recall the specifics was one  
7 that had to do with appraisers who had been retained  
8 by Madison Guaranty.

9 Q And who had made those criminal referrals?

10 A To the best of my recollection, they were  
11 made by Sarah Worsham-Hawkins.

12 Q Who did she work for at the time?

13 A Ms. Hawkins had been a Federal Home Loan  
14 Bank examiner who was ultimately employed by Madison  
15 Guaranty. I do not recall by which she was employed  
16 at the time the referrals were made.

17 Q Did you seek to review the three prior  
18 criminal referrals?

19 A Yes, sir. I recall reading them.

20 Q And what happened to them?

21 A I don't know what the final disposition  
22 was.

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1 Q Was there a criminal indictment issued as a  
2 result of those three criminal referrals?

3 A I do not recall having seen an indictment  
4 to that effect.

5 Q This was with respect to Madison Bank?

6 A With respect to Madison Guaranty Savings &  
7 Loan, yes, sir.

8 Q And when were the referrals made?

9 A I'm sorry, I don't recall the exact dates.

10 Q Approximately?

11 A I don't recall.

12 Q As a professional criminal investigator,  
13 wouldn't you want to know what those referrals were  
14 about and what happened?

15 A I'm sorry, I missed part of your question  
16 there. Would you rephrase it.

17 Q As a professional criminal investigator,  
18 wouldn't you like to know about those referrals in  
19 terms of their substance and what happened to them?

20 A Yes, sir.

21 Q Did someone prevent you from finding out?

22 A No, sir.



1 Q But you just don't recall?

2 A The matters were raised at Mr. McDougal's  
3 trial. I believe what I testified to is that I did  
4 not recall having seen any indictments to those  
5 effects.

6 Q Were there any other investigations  
7 relating to Madison that came to your attention?

8 A At some point the civil litigation  
9 involving Frost & Company and Madison Guaranty was an  
10 issue that came to my attention.

11 Q Did any other matter come to your attention  
12 regarding any proposed or discussed civil action  
13 relating to Madison?

14 A There was substantial discussion in the  
15 form of the Borod & Huggins report created by  
16 attorney Jeff Gerrish that I did review.

17 Q What was the conclusion in terms of whether  
18 a civil action ought to be pursued?

19 A I recall Mr. Garish made various  
20 recommendations, but I don't recall all of the  
21 specifics.

22 Q Well, in general, what do you recall?

1 A In general, I recall having finished the  
2 report with the impression that there were not  
3 sufficient assets in some cases to warrant civil  
4 litigation.

5 Q What do you mean "in some cases"?

6 A That was the impression I had when I  
7 completed the report. I can't recall the specifics.

8 Q Well, did you not receive the impression  
9 that it was determined that it would not be  
10 cost-effective or reasonable from a financial  
11 standpoint to put the time and effort into a civil  
12 action relating to Madison because it was unlikely  
13 that there would be any recovery at the very end of  
14 the road, even if the agency were successful?

15 A At the point in time I completed reviewing  
16 the report, I had the impression as to Mr. Garish's  
17 recommendations and conclusions.

18 By the conclusion of the criminal  
19 investigation, I had significant knowledge beyond  
20 that regarding civil matters.

21 Q But could you answer my question?

22 A I thought I did. I'm sorry.



1 MR. BEN-VENISTE: Could you read it back,  
2 please.

3 (The reporter read the record as requested.)

4 THE WITNESS: Yes.

5 BY MR. BEN-VENISTE:

6 Q Did you have reason to disagree with that  
7 conclusion?

8 A No, sir.

9 Q You indicated that there were approximately  
10 six to eight criminal referrals from your office from  
11 June 17th until October of 1993; is that correct?

12 A Yes, sir.

13 Q How many of those criminal referrals was  
14 PLS advised of in advance of them being sent forward?

15 A I don't know.

16 Q Do you know of any?

17 A No, sir, I don't.

18 Q With respect to the PLS review of the  
19 Madison criminal referral, how much time did that  
20 review take?

21 A Approximately one week, as I recall.

22 Q And during that one-week period, did

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1 anything occur that led you to believe that a delay  
2 of one week had impeded the efforts embodied in the  
3 criminal referrals?

4 A During that one week, no, sir.

5 Q You have indicated that from the time you  
6 sent on the 1992 criminal referral, 0004, until  
7 December of 1992, you had no contact with the FBI or  
8 U.S. Attorney's Office by way of follow-up. When did  
9 you contact the U.S. Attorney's Office or the FBI  
10 again after December of 1992 on that matter?

11 MR. GIUFFRA: Can I have that question read  
12 back.

13 (The reporter read the record as requested.)

14 MR. GIUFFRA: I'm just going to object to  
15 the form of that question.

16 MR. BEN-VENISTE: Noted.

17 BY MR. BEN-VENISTE:

18 Q You may answer.

19 A I believe it was early January 1993.

20 Q Who did you call?

21 A I contacted Mr. Mac Dodson.

22 Q What did you say to him?

1 A I advised him of the pending FOIA request  
2 that was seeking records on Mr. Jim Guy Tucker, and I  
3 advised him that the RTC had some concerns with  
4 releasing certain records because we had not  
5 previously had a response regarding C0004.

6 Q When did that FOIA request come in to your  
7 agency?

8 A I don't remember the particular date.

9 Q Would it have come to your attention in  
10 writing?

11 A Initially? No.

12 Q Subsequently did it come to your attention  
13 in writing?

14 A Yes, sir, I believe it did.

15 Q Prior to the time that you contacted  
16 Mr. Dodson?

17 A Yes, sir, I believe so.

18 Q And what do you recall about what you had  
19 seen?

20 A I believe I received an E-mail that had  
21 been forwarded to me from our public affairs people  
22 who handle these FOIA requests, asking me to respond

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1 as best I could to it.

2 Q Was that someone in Washington, D.C. who  
3 sent you that?

4 A No, sir.

5 Q Who was it?

6 A I believe it was local Kansas City public  
7 affairs.

8 Q And what did they ask you?

9 A I believe I was forwarded a copy of the  
10 FOIA request to check and see if there were any  
11 records that would be responsive to it and to please  
12 so advise them if there were.

13 Q If I understand you, the request was simply  
14 to see what you had in the way of records?

15 A Yes, sir.

16 Q Did anyone ask you to contact the U.S.  
17 Attorney's Office to see whether they had any  
18 objection to your complying with the regular  
19 procedures of FOIA?

20 A There was discussion among myself and my  
21 superiors as to the need to contact the U.S. Attorney  
22 before responding back to the FOIA people.

1 Q As to whether or not you had any documents?

2 A We did not feel we could answer the  
3 question as to whether or not we had responsive  
4 documents that could be released until we spoke to  
5 the U.S. Attorney's Office.

6 Q The question, as I understand it, that was  
7 put to you was whether you had responsive documents,  
8 not whether there was some impediment to releasing  
9 them; is that correct?

10 A That's correct.

11 Q Who did you have that conversation with?

12 A Mr. Ausen, Mr. Iorio and I believe  
13 Ms. Jankowski.

14 Q Did you make a memorandum of that  
15 conversation or discussion?

16 A I don't recall.

17 Q Did you make a memorandum of your  
18 conversation with Mr. Dodson?

19 A I believe I did.

20 Q And did you send that memorandum to the  
21 public information office?

22 A No, sir, I don't think I did.

1 Q If the purpose of your calling Mr. Dodson  
2 was to provide information to the public information  
3 section, why didn't you transmit that information to  
4 them?

5 A In a separate format I did transmit that  
6 information to them.

7 Q What did you say?

8 A I believe there was a document that  
9 outlines that, and I would like to see it to refresh  
10 my memory, if I could.

11 Q Can you provide me with some date or other  
12 manner of finding it?

13 A Is my administrative file available? I  
14 would be glad to locate the document.

15 Q We will do that at the first break. What  
16 do you recall from your memory that you said?

17 A I recall that there was a memorandum  
18 produced, either a memorandum or an E-mail,  
19 identifying that we had certain documents relating to  
20 Mr. Tucker and that we would be objecting to the  
21 release of those documents under a particular section  
22 of the Freedom of Information Act.

1 Q What section was that?

2 A I don't recall.

3 Q What did Mr. Dodson tell you about that?

4 A Mr. Dodson advised me that the U.S.  
5 Attorney's Office could not speak to how another  
6 government agency handled its FOIA requests.

7 Q So, the response that you got from  
8 Mr. Dodson did not impede you from following the  
9 normal requirements of your agency under FOIA, which  
10 in this circumstance was to refuse the request; is  
11 that correct?

12 MR. FORSHEY: I will object to the  
13 question. I don't know that the witness has  
14 testified she did not follow the agency's normal  
15 procedures.

16 BY MR. BEN-VENISTE:

17 Q You may answer.

18 A We did follow the agency's normal  
19 procedures and object to the possible release of  
20 those documents in favor of erring on the side of  
21 conservatism since we didn't know if the U.S.  
22 Attorney intended to prosecute or decline at that

1 time.

2 Q Whether or not the U.S. Attorney intended  
3 to prosecute or decline, were there other regulations  
4 applicable under FOIA procedures in your agency that  
5 would have led to the same conclusion?

6 A I'm not an expert in the areas of FOIA but  
7 addressed the matters as I believe they were laid out  
8 under the regular procedures. So I can't tell you if  
9 there is a specific procedure that would have  
10 addressed it later down the line.

11 Q So if I understand you correctly, you  
12 contacted Mr. Dodson even though you weren't  
13 requested to do so by the FOIA branch; his response  
14 was that he couldn't provide you any information  
15 beyond that which you would normally employ at your  
16 agency to make such a decision and that under what  
17 you understood to be the appropriate guidelines, you  
18 recommended to the FOIA branch that they not disclose  
19 any documents; is that correct?

20 A That's correct.

21 Q I know that you are not an expert in FOIA,  
22 as you have advised us, but did you understand that



1 there was some procedure under FOIA wherein  
2 investigators from the RTC simply by collecting  
3 personal or business bank-related documents in the  
4 course of their investigation would then be obliged  
5 to turn those over to some third party pursuant to an  
6 FOI request?

7 A Would you rephrase your question. I'm not  
8 sure I understood it.

9 Q I will have it read back.

10 (The reporter read the record as requested.)

11 MR. FORSHEY: I will object to the question  
12 as to form simply because I don't understand it.

13 BY MR. BEN-VENISTE:

14 Q You may answer, if you understand it.

15 A I really don't understand,  
16 Mr. Ben-Veniste.

17 Q Let me put it another way. You collect  
18 records either by compulsory process or some other  
19 form by which you are entitled to get records of a  
20 financial nature that the general public is not able  
21 to get in the same way you are; correct?

22 A Correct.

1 Q Is it your understanding that the Freedom  
2 of Information Act allows some third party after you  
3 have done your work in collecting those documents to  
4 obtain them?

5 A Through the appropriate channels under FOIA  
6 regulations, yes, sir.

7 Q You do?

8 A If I understand your question correctly,  
9 yes, sir.

10 Q So anything that you collect would be made  
11 available to some newspaper or third party under  
12 FOIA?

13 MR. GIUFFRA: Objection. I think that is  
14 mischaracterizing her testimony completely.

15 BY MR. BEN-VENISTE:

16 Q Can you answer the question?

17 MR. GIUFFRA: She testified --

18 MR. BEN-VENISTE: Please don't make a  
19 speech, Mr. Giuffra.

20 MR. FORSHEY: Read the question, please.

21 (The reporter read the record as requested.)

22 BY MR. BEN-VENISTE:



1 Q Is that your testimony?

2 MR. GIUFFRA: I will restate my objection.

3 That's not what her testimony was.

4 MR. FORSHEY: I will join in that  
5 objection.

6 MR. BEN-VENISTE: This is the time for the  
7 witness to actually say whether or not that is her  
8 testimony.

9 THE WITNESS: No, sir, that is not my  
10 testimony.

11 BY MR. BEN-VENISTE:

12 Q What is your testimony about the third  
13 party's right to get your collected information?

14 A The third party right has some limitations,  
15 and from my understanding, there are fairly stringent  
16 regulations with regard to documents that are  
17 released from government agencies for public access.

18 Q Thank you.

19 You have indicated in response to  
20 Mr. Giuffra's questions yesterday, I believe, that  
21 you have received many inquiries from representatives  
22 of the media with relation to the investigation you

1 conducted involving Madison but that you have never  
2 provided any substantive information to the media;  
3 you simply told them that you could not and would not  
4 speak to them; is that correct?

5 A That is correct that I provided no  
6 substantive information to the media, yes, sir.

7 Q Did there come a time when a communication  
8 was received by you from some representative of the  
9 print media with respect to a story asking for your  
10 comments?

11 MR. FORSHEY: I will object to the  
12 question. I think she indicated that all of these  
13 calls were from various members of the press, trying  
14 to elicit information from her.

15 MR. BEN-VENISTE: I don't understand what  
16 your objection is about, Counsel, but you are wasting  
17 time with it.

18 MR. FORSHEY: My objection is an objection  
19 for the record as to form of your question in that I  
20 do not understand it. I believe it is overbroad.

21 MR. BEN-VENISTE: If the witness  
22 understands it, that is somewhat more important than

1 whether you understand it, with all due respect.

2 MR. FORSHEY: It is equally as important,  
3 as I understand it.

4 BY MR. BEN-VENISTE:

5 Q Do you understand the question?

6 A Did I hear you correctly ask if I had  
7 received some form of written communication from a  
8 member of the print media?

9 Q Yes, by way of telefax, I believe, is my  
10 question.

11 MR. GIUFFRA: Mr. Ben-Veniste, is that  
12 question up to the present?

13 BY MR. BEN-VENISTE:

14 Q Prior to the time that you left the  
15 agency.

16 A Not to my best recollection, no, sir.

17 Q Do you recall receiving a telefax from  
18 either USA Today or Knight-Ridder?

19 A I'm sorry? What was the last one?

20 Q Knight-Ridder?

21 A No, sir, I don't recall receiving a telefax  
22 directly from either of those entities that you

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1 mentioned.

2 Q Well, let's try indirectly.

3 (Witness conferred with counsel.)

4 MR. BEN-VENISTE: The record will reflect a  
5 conference with counsel.

6 MR. FORSHEY: The record will reflect that  
7 the witness has the absolute right to confer with  
8 counsel.

9 MR. BEN-VENISTE: No one is disputing  
10 that.

11 BY MR. BEN-VENISTE:

12 Q Can you answer the question?

13 A The answer is no, sir, I do not recall  
14 having received a telefax.

15 Q Did you receive any communication in  
16 writing asking for your comments on a particular  
17 story?

18 A Yes, sir, I did.

19 Q When was that?

20 A I don't remember the date.

21 Q Approximately.

22 A I'm sorry, I can't even approximate the

1 date.

2 MR. FORSHEY: Again, for my clarification,  
3 this is a written communication?

4 MR. BEN-VENISTE: That's what the witness  
5 has recollected.

6 MR. FORSHEY: I was asking about your  
7 question.

8 BY MR. BEN-VENISTE:

9 Q Do you remember the year?

10 A It seems to me that it was after the  
11 investigation was concluded, but I do not know if it  
12 was 1993 or 1994.

13 Q What do you recall about the communication  
14 that you received?

15 A It was a letter from a reporter with a  
16 paper, I believe in St. Louis, Missouri, and the  
17 letter had no return address on it.

18 Q What else do you recall about it?

19 A The letter inquired as to whether or not I  
20 would speak with him off the record regarding matters  
21 that pertained to Madison and Whitewater.

22 Q Let me ask you again whether you received a

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1 communication from any representative of the print  
2 media, either directly or indirectly, requesting your  
3 comments with respect to a proposed article.

4 A I received a letter request that I have  
5 just identified, yes.

6 Q Did it enclose an article?

7 A No, sir.

8 Q I'm asking you again whether you recall  
9 receiving a request from any representative of the  
10 print media, whether you received that directly or  
11 indirectly, requesting your comments with respect to  
12 a proposed article?

13 MR. FORSHEY: Let me clarify, Counsel. A  
14 written request; is that correct? You started out  
15 saying "written." Have you changed your question,  
16 for my clarification?

17 MR. BEN-VENISTE: No.

18 MR. FORSHEY: Are you asking written then?

19 MR. BEN-VENISTE: You are wasting my time.

20 MR. FORSHEY: I'm trying to clarify the  
21 question. Was this a written communication?

22 MR. BEN-VENISTE: Listen carefully to my

1 question.

2 BY MR. BEN-VENISTE:

3 Q Ms. Lewis, do you recall receiving,  
4 directly or indirectly, any request from a  
5 representative of the print media to comment on a  
6 proposed article?

7 A No, sir, I do not, to the best of my  
8 recollection, recall receiving -- Mr. Ben-Veniste,  
9 I'm sorry, your question is confusing me. It really  
10 is.

11 Q I'm sorry. I don't mean to.

12 A Could you clarify, try one more time?

13 Q Sure.

14 Did you receive, either directly or  
15 indirectly, a request from any representative of the  
16 print media to comment upon a proposed story?

17 (Counsel conferred with the witness.)

18 MR. BEN-VENISTE: Let the record reflect  
19 that Mr. Forshey has initiated a conference with  
20 counsel.

21 MR. FORSHEY: Let the record reflect I am  
22 entitled to do that. This is clearly intimidation.

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1 MR. BEN-VENISTE: You are not entitled to  
2 do that.

3 MR. GIUFFRA: That is absolutely --

4 MR. BEN-VENISTE: You be quiet for a  
5 moment.

6 MR. GIUFFRA: The depositions that have  
7 been conducted --

8 MR. BEN-VENISTE: Would you please be quiet  
9 for just a moment, Mr. Giuffra.

10 MR. GIUFFRA: We should not be singling out  
11 one witness --

12 MR. BEN-VENISTE: If you had any experience  
13 in connection with litigation, Mr. Giuffra, you would  
14 know that the witness's right to confer with counsel  
15 does not include a right to confer while a question  
16 is pending unless it involves a privilege.

17 Secondly, the communication between witness  
18 and attorney at deposition is one which the witness  
19 needs to initiate. It is not appropriate for counsel  
20 to initiate the communication.

21 Now, I will repeat my question --

22 MR. LEVIN: For the record,



1 Mr. Ben-Veniste --

2 MR. BEN-VENISTE: You are not representing  
3 anybody on the record. Let's take a recess now.

4 MR. LEVIN: Excuse me -- Mr. Ben-Veniste,  
5 you are not a judge, you are not the chairman of this  
6 committee, you are not President of the United  
7 States, and I shall speak.

8 Let the record reflect that Mr. Ben-Veniste  
9 yesterday and today has made every effort to  
10 interfere with representation of this client.

11 MR. BEN-VENISTE: You be quiet or I am  
12 going to ask that we have someone ask you to leave  
13 this deposition. You are not representing this  
14 client on the record. We established that  
15 yesterday.

16 Your speeches are useless. They are  
17 posturing and they are appropriate in the political  
18 context from which they come, but not to clutter up  
19 this record.

20 MR. LEVIN: I believe you are coming very  
21 close to violating the code of professional conduct.

22 MR. BEN-VENISTE: You take that to the

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1 appropriate authorities, if you feel there are such.

2 MR. LEVIN: Excuse me, sir. You made an  
3 accusation on national television and made it again  
4 yesterday that was false. I think your activity here  
5 is reprehensible.

6 MR. BEN-VENISTE: You are uninformed about  
7 what happened. You indicated you are uninformed  
8 about it. I suggest you inform yourself and not take  
9 up our time.

10 Your client has indicated she wants to get  
11 back home today. We have made efforts to accommodate  
12 that. We will not be able to make efforts if you  
13 continue to clutter up the record, sir.

14 Why don't we take a recess now. We will  
15 come back to the question again after the recess.

16 Ms. Lewis, I would ask that you attempt to  
17 locate the document from your administrative file  
18 that you requested to see during this recess this  
19 morning.

20 MR. FORSHEY: Not off the record --

21 MR. BEN-VENISTE: The record will show we  
22 started at 20 minutes of 10. It is now 10:30.



1 MR. FORSHEY: We are not going off the  
2 record yet. I want the record to reflect that  
3 Ms. Lewis was here five minutes before 9:30 to begin  
4 this deposition.

5 MR. BEN-VENISTE: But she didn't appear --

6 MR. FORSHEY: She was here and available  
7 and ready, but counsel was not here on time.

8 MR. BEN-VENISTE: Mr. Giuffra was not here  
9 on time.

10 MR. FORSHEY: I also want the record to  
11 reflect there has been no accommodation for my  
12 client. There was a scheduled deposition for  
13 yesterday and today. We were here for both days. We  
14 have gone forward.

15 MR. BEN-VENISTE: Okay. We will take a  
16 short recess. Ms. Lewis will be able to review her  
17 files.

18 (Recess.)

19 BY MR. BEN-VENISTE:

20 Q Ms. Lewis, have you had the opportunity to  
21 look through your file for the E-mail you discussed?

22 A Yes, sir.

1 Q Were you able to find it?

2 A No, sir, I'm sorry, I was not.

3 Q When we left, I was asking you whether you  
4 had received a communication from any member of the  
5 print media with respect to soliciting your comments  
6 on the proposed article. Let me be a little more  
7 specific.

8 Let me focus you on 1994, in the month of  
9 May, to the Scripps-Howard news service and ask  
10 whether you received a telefax in your office at the  
11 RTC with respect to soliciting your comments in a  
12 draft article.

13 A I received a copy of an article.

14 Q What do you recall about the article and  
15 the author?

16 A The author, I believe, was Lisa Hoffman,  
17 and it was an article she had previously written  
18 about me. It was faxed to me by counsel.

19 Q So, that's where the direct and indirect  
20 comes in, that you didn't get it directly from her,  
21 you got it from counsel?

22 A If I understand you, Mr. Ben-Veniste, you

- 1 asked about a telefax; is that correct?  
2 Q Correct.  
3 A Yes, sir.  
4 Q So you got it indirectly because your  
5 counsel sent it to you?  
6 A Yes, sir.  
7 Q And do you remember when this was?  
8 A I don't recall the specifics, no.  
9 Q And you do recall, however, the identity of  
10 the author of the article?  
11 A That's correct.  
12 Q And who was that and what publication,  
13 again?  
14 A Lisa Hoffman, Scripps-Howard, I believe.  
15 Q And had you ever spoken to Ms. Hoffman?  
16 A Yes, sir, I did.  
17 Q And on how many occasions?  
18 A Two occasions, I believe.  
19 Q Face to face?  
20 A No, sir.  
21 Q Both on the telephone?  
22 A That's correct.
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- 1 Q Did she call you or did you call her or  
2 both?  
3 A She contacted me.  
4 Q And where were you at the time?  
5 A In my office.  
6 Q And about how long did these telephone  
7 conversations last?  
8 A The second one was very brief. The first  
9 one approximately five to 10 minutes.  
10 Q And that is the total extent of your  
11 conversation with Ms. Hoffman?  
12 A Yes, sir, as best I recall, it is.  
13 Q And in either of those conversations, did  
14 you provide any information to Ms. Hoffman?  
15 A Yes.  
16 MR. GIUFFRA: About any subject?  
17 THE WITNESS: Yes.  
18 BY MR. BEN-VENISTE:  
19 Q And prior to the time that her finished  
20 article came out in print form, did you receive any  
21 draft directly or indirectly from Ms. Hoffman?  
22 A No, sir, I did not.

1 Q To the best of your knowledge, did your  
2 counsel?

3 A Not to my knowledge.

4 Q Did you talk with Susan Schmidt from The  
5 Washington Post on any occasion?

6 A Yes.

7 Q You have indicated that she appeared at  
8 your home on one occasion; is that correct?

9 A Yes.

10 Q When was that?

11 A October 5th, 1993, as I recall.

12 Q And did she indicate how she had gotten  
13 your address?

14 A No, sir, but she did say that it had taken  
15 some serious digging to find me.

16 Q Had she spoken to you on the phone prior to  
17 that?

18 A Yes.

19 Q How many times had she spoken to you by  
20 phone?

21 A As I recall, she had only contacted me at  
22 one point prior to showing up on my front door.

1 Q Have you ever contacted her?

2 A No, sir.

3 Q You have never initiated a call to  
4 Ms. Schmidt?

5 A No, sir.

6 Q And you invited her into your home?

7 A I won't characterize it as an invitation.  
8 I allowed her to step inside the door and go no  
9 further.

10 Q She stepped in the door?

11 A Correct.

12 Q And you said "come in but go no further"?

13 A I said, "you can step in, it is chilly,"  
14 and I closed the door.

15 Q You stood for this -- how long were you  
16 together inside your home?

17 A As I recall, it was approximately 15  
18 minutes.

19 Q During the whole time you were standing;  
20 you did not invite her to sit?

21 A That's correct.

22 Q Did you provide any information to

- 1 Ms. Schmidt?  
2 A No, sir.  
3 Q At the time that you were assigned to  
4 Madison, what were you working on?  
5 A I was in the process of concluding a final  
6 referral on First Federal Savings of Paragould,  
7 Arkansas.  
8 Q What was involved there?  
9 A As I recall, I was in the final stages of  
10 the draft referral and was attempting to prepare it  
11 for signatures and submission.  
12 Q What was the size of the First Federal  
13 situation in terms of dollar amounts?  
14 A With regard to the loss?  
15 Q Yes.  
16 A First Federal of Paragould?  
17 Q Yes.  
18 A Are you asking overall loss caused by the  
19 association or just the losses alleged by the  
20 criminal referrals? There is a significant  
21 difference.  
22 Q Let's say both.
- 

- 1 A The actual dollar loss identified by the  
2 RTC I do not recall. The dollar amount of the  
3 criminal referrals collectively was several million.  
4 Q Presumably the dollar loss was much more  
5 than for the institution?  
6 A Yes, sir.  
7 Q Do you have some range?  
8 A No, I'm sorry, I really don't remember.  
9 Q More than 100 million?  
10 A I don't remember, Mr. Ben-Veniste. I'm  
11 sorry.  
12 Q You are saying it could be that much?  
13 A I don't know.  
14 Q How long did you work on that?  
15 A Off and on for two years.  
16 Q So, more or less the whole time you were  
17 there?  
18 A No.  
19 Q How many years had you been at the agency?  
20 A A little over four.  
21 Q So half of your time, more or less?  
22 A Off and on, yes, sir.

1 Q And you have no idea how much loss was  
2 caused by the bank going under?

3 MR. GIUFFRA: Objection. That's not what  
4 her testimony is. She said she didn't recall.

5 THE WITNESS: I don't recall at this point  
6 in time what the actual dollar loss was caused by  
7 Paragould.

8 BY MR. BEN-VENISTE:

9 Q I'm not asking for an actual dollar  
10 figure. I'm asking for a range. Was it 100  
11 million? 200 million?

12 MR. FORSHEY: You asked the same question  
13 over and over. She said she doesn't recall.

14 Q Mr. Giuffra objected to that, so I want to  
15 make sure I'm not being unfair and give you the  
16 opportunity to say if you know.

17 A There was a point in time I recalled, but  
18 at this juncture, I can't recall.

19 Q So you knew it but you forgot?

20 A I can't recall at this point.

21 Q Do you remember when you forgot it?

22 Now, in addition to First Federal of

1 Paragould, what else did you have on your plate?

2 A I was planning to embark on an  
3 investigation of Savers Savings.

4 Q Was there anything else?

5 A I still had some other referrals out there  
6 pending on other institutions.

7 Q Do you remember any of them?

8 A I recall there was one pending still on  
9 First America Savings of Fort Smith, Arkansas.

10 Q Anything else?

11 A Not that comes readily to mind, no, sir.

12 Q Do you recall having any communications  
13 directly or indirectly with the Little Rock FBI about  
14 institutions that the FBI was interested in you  
15 investigating?

16 A Yes.

17 Q When did you have those conversations?

18 A As best I recall, it was in December of  
19 1991.

20 Q And with whom did you have the  
21 conversations?

22 A Steve Irons.



1 Q What do you recall about those  
2 conversations in terms of what the FBI's priorities  
3 were?

4 A Mr. Irons didn't identify specific  
5 priorities but did say that it would be helpful to  
6 him after we discussed the institutions I would be  
7 looking at if I would undertake the investigation of  
8 Savers Savings and Capital Federal Savings within a  
9 reasonable time after the first of the year.

10 Q Was there a First Federal as well?

11 A First Savings, yes, sir. It became First  
12 Federal.

13 Q So, that's different than Savers Savings?

14 A Yes.

15 Q There is Savers Savings and First Savings  
16 that later became First Federal?

17 A Correct.

18 Q And those two institutions were mentioned  
19 in December of 1991 in terms of FBI interest; is that  
20 correct?

21 A No, sir. I believe I testified the other  
22 institution in addition to Saver was Capital Federal

1 Savings.

2 Q Did you ever have a conversation with  
3 respect to the FBI's interest in First Savings?

4 A No, sir.

5 Q Never?

6 A Not that I recall.

7 Q And so we understand each other, we are  
8 talking about First Federal?

9 A Correct, that is what I understand you to  
10 mean.

11 Q Did you ever receive an assignment with  
12 respect to First Federal?

13 A I had it scheduled on a list of prioritized  
14 institutions in Arkansas to address at some point in  
15 time.

16 Q And as of the time that you received your  
17 assignment for Madison, what were the prioritized  
18 institutions ahead of Madison, if there were any?

19 A There were several failed institutions I  
20 was responsible for investigating. I don't recall  
21 the exact order of the priorities.

22 Q Well, give us the best of your recollection

- 1 which were the ones ahead of Madison.  
2 A I believe I have a document that can  
3 reflect that accurately, if I may look.  
4 Q Do you have a recollection?  
5 A As to the exact priority lineup prior to  
6 Madison?  
7 Q If you don't any exactly, if you could  
8 speak generally. If you don't have any general  
9 recollection, so be it.  
10 A I recall Savers, because I knew it was the  
11 next investigation I was going to go on to, but  
12 beyond that I don't remember what the lineup of  
13 priority was.  
14 Q Were there others ahead of Madison?  
15 A As I recall, yes.  
16 Q Do you recall approximately how many?  
17 A No, sir, I don't.  
18 Q Was First Federal ahead of Madison?  
19 A I don't recall.  
20 Q What was the loss associated with Savers  
21 Savings?  
22 A I recall it was in excess of \$100 million,
- 

- 1 I believe.  
2 Q And with respect to First Federal?  
3 A I don't recall.  
4 Q Wasn't that significantly larger than  
5 Savers?  
6 A I believe it was.  
7 Q Do you recall?  
8 A No, I am sorry, I don't recall the dollar  
9 amount of the loss. No, I don't.  
10 Q Do you have a range of loss that you could  
11 provide us on the basis of your recollection with  
12 respect to First Federal of Little Rock?  
13 A No, sir. I simply do not recall the dollar  
14 amount.  
15 Q Do you know if it was 100 million or a  
16 billion dollars?  
17 A No, not sitting here, I don't recall.  
18 Q What was the loss associated with Madison?  
19 A Between 40 and \$60 million.  
20 Q Now, who was it who assigned you to work on  
21 Madison?  
22 A Mr. Mike Van Valkenburg.

1 Q And did you have a discussion with him in  
2 terms of why you would move ahead in priority the  
3 Madison investigation ahead of the others that had  
4 been prioritized as more important than Madison?

5 A Yes.

6 Q What was the conversation?

7 A I remember we discussed after some  
8 preliminary investigation what the findings were, and  
9 Mr. Van Valkenburg indicated that he and Mr. Iorio  
10 thought I should continue with that investigation  
11 based on the preliminary findings.

12 MR. BEN-VENISTE: Read that answer back,  
13 please.

14 (The reporter read the record as requested.)

15 BY MR. BEN-VENISTE:

16 Q My question is, do you recall whether  
17 Mr. Van Valkenburg and you discussed why Madison  
18 would be moved ahead of the other institutions that  
19 were prioritized as being more important than  
20 Madison.

21 A No, sir, not as it related to priorities.

22 Q Was there some matter discussed either

1 between you and Mr. Van Valkenburg or some other  
2 superior who was in charge of making assignments to  
3 you as to why suddenly Madison would be moved ahead  
4 in terms of the priority of review?

5 A The discussion did not focus on priority.

6 Q I didn't ask you whether it focused on it.  
7 I'm asking you whether it came up. Suddenly you are  
8 asked to defer other things that were prioritized  
9 involving other banks and you were asked to begin  
10 looking at Madison immediately. I'm asking you  
11 whether someone explained why.

12 A I was asked to go ahead and finish what I  
13 had started.

14 Q Can you answer my question?

15 A I believe I did.

16 Q Again, you have indicated that there were  
17 priorities listed for your investigative review ahead  
18 of Madison at the time you were contacted by  
19 Mr. Van Valkenburg. I am asking you again whether  
20 there was a discussion of why Madison would be placed  
21 ahead of those other priorities.

22 A No.

1 Q No discussion?

2 A With regard to why Madison would be placed  
3 ahead? No.

4 Q Did you know why it was going to be placed  
5 ahead?

6 A No, sir. I was simply asked to continue  
7 what I had started.

8 Q So, you had no idea why it was that Madison  
9 would now be your principal endeavor in terms of  
10 investigative work?

11 A I was instructed to continue with my  
12 investigation once it was underway.

13 Q Could you answer my question?

14 A No.

15 Q Let me see whether I can help you. Was it  
16 because suddenly Mr. McDougal achieved some  
17 additional measure of notoriety in Arkansas?

18 A Not that I'm aware of.

19 Q Was it because there was a newspaper  
20 article that mentioned Governor and Mrs. Clinton?

21 A That was the basis for the initial request  
22 to undertake the investigation.

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1 Q Is that the reason why in your view it was  
2 bumped ahead of the other priority items?

3 A I don't know why it was bumped ahead of  
4 other priority items, as you have phrased it.

5 Q You never asked anybody and you never  
6 discussed it with anybody?

7 A No, sir.

8 Q Was there any reason other than the fact  
9 that the Clintons were mentioned that you could point  
10 to that would explain why it was moved ahead in terms  
11 of priority?

12 MR. FORSHEY: I will object to the  
13 question. It assumes one of the reasons is because  
14 the Clintons were mentioned.

15 BY MR. BEN-VENISTE:

16 Q You may answer.

17 MR. GIUFFRA: Are you confused?

18 MR. FORSHEY: Read back the question.

19 (The reporter read the record as requested.)

20 THE WITNESS: I was never advised why it  
21 was moved ahead in priority.

22 BY MR. BEN-VENISTE:

- 1 Q And you never figured it out for yourself?  
2 A I was instructed to continue with the  
3 investigation. No.  
4 Q No, you never figured it out yourself?  
5 MR. GIUFFRA: Objection; asked and answered  
6 for about the fifth time.  
7 BY MR. BEN-VENISTE:  
8 Q You may answer.  
9 A I did my job. I didn't give a lot of  
10 thought as to why the priority may have shifted.  
11 Q Do you recall an investigation involving  
12 Cimmaron Bank?  
13 A Yes.  
14 Q Who was in charge of that investigation?  
15 A I was the lead criminal investigator on  
16 that.  
17 Q How much time did you spend on that?  
18 A Best recollection is a matter of months.  
19 Q How many hours?  
20 A I don't remember.  
21 Q Approximately?  
22 A Anywhere between 75 and 300.
- 

- 1 Q Did anyone else work on that investigation?  
2 A Yes.  
3 Q Who else?  
4 A Ed Noyes.  
5 Q Was his name listed on the report?  
6 A To which report are you referring?  
7 Q The criminal referral.  
8 A No.  
9 Q Who did the majority of the work on that  
10 investigation?  
11 A I would say it was maybe a 60-40 split,  
12 with Mr. Noyes doing approximately 60 percent of the  
13 work.  
14 Q Is there some reason why Mr. Noyes's name  
15 did not appear on that report?  
16 A Yes.  
17 Q What was that?  
18 A Mr. Iorio determined that he did not want  
19 Mr. Noyes's name on that report.  
20 Q Did you discuss that with Mr. Iorio?  
21 A Yes.  
22 Q What was the reason?



1 MR. GIUFFRA: I'm going to object right  
2 here. I think we are spending a lot of time on a  
3 matter that has nothing to do with the regulation of  
4 Madison.

5 We are going outside the scope of Senate  
6 Resolution 120. If you want to bring us back to the  
7 regulation of Madison, that's fine. But to examine  
8 her on every matter she worked on at the RTC in  
9 depth, we are going far afield of what the Senate has  
10 authorized us to do.

11 MR. BEN-VENISTE: Thank you.

12 BY MR. BEN-VENISTE:

13 Q Could you provide the conversation, to the  
14 best of your recollection, between you and Mr. Iorio  
15 about why he did not want Mr. Noyes's name on  
16 the report.

17 MR. GIUFFRA: My objection stands. I want  
18 to take a break right now. Don't answer the  
19 question, Ms. Lewis.

20 MR. BEN-VENISTE: Please mark the time.

21 (Recess 11:20 to 11:30 a.m.)

22 MR. BEN-VENISTE: On the record. It is

1 11:30. We are waiting for Mr. Giuffra to return.

2 (Pause.)

3 MR. GIUFFRA: Unfortunately, our system  
4 doesn't work as quickly as I hoped. I am trying to  
5 get some guidance as to permissible scope of  
6 examination.

7 MR. BEN-VENISTE: Let me give you a little  
8 guidance, Mr. Giuffra.

9 MR. GIUFFRA: Can I finish and make a point  
10 without your interrupting? My concern is  
11 Mr. Ben-Veniste intends to examine Ms. Lewis about  
12 every S&L she was involved in in Arkansas in detail.  
13 I think that is going beyond the scope of Senate  
14 Resolution 120.

15 What I would ask Mr. Ben-Veniste to do is  
16 go into another area and come back to this one after  
17 we get guidance.

18 MR. BEN-VENISTE: Let me help you,  
19 Mr. Giuffra. You mentioned in the course of your  
20 examination that Ms. Lewis was placed on  
21 administrative leave in 1994, and the record should  
22 not indicate, as you might like to leave it, that

1 this was done for no reason, and I am exploring the  
2 possible reasons why the RTC took the action that it  
3 did.

4 BY MR. BEN-VENISTE:

5 Q I believe the last question was to provide  
6 the conversation between you and Mr. Iorio wherein  
7 Mr. Iorio explained to you why Mr. Noyes should not  
8 have his name reflected on the criminal referral  
9 regarding Cimmaron Bank.

10 MR. GIUFFRA: I would ask Ms. Lewis not to  
11 answer this question.

12 MR. BEN-VENISTE: You are directing the  
13 witness not to answer the question, Mr. Giuffra?

14 MR. GIUFFRA: Until we get a ruling.

15 MR. BEN-VENISTE: You are interfering with  
16 my inquiry at this point, Mr. Giuffra. I suggest you  
17 talk to Mr. Chertoff about what you are doing.

18 BY MR. BEN-VENISTE:

19 Q Will you answer the question?

20 A Mr. Ben-Veniste, with all due respect, I  
21 have been instructed by Majority counsel not to.

22 MR. BEN-VENISTE: Please mark that.

1 MR. GIUFFRA: Once we have had a chance to  
2 confer, we can go back to this area if it turns out  
3 to be appropriate.

4 MR. BEN-VENISTE: Apparently --

5 MR. GIUFFRA: You asked this woman about  
6 her divorce.

7 MR. BEN-VENISTE: I didn't ask her about  
8 her divorce, Mr. Giuffra. You are exactly wrong  
9 about that. I am now asking her about the Cimmaron  
10 referral. You are directing her not to answer any  
11 questions about that, including the PLS involvement  
12 in Cimmaron? Are you?

13 MR. GIUFFRA: At this time, yes.

14 MR. BEN-VENISTE: Please mark this area.

15 BY MR. BEN-VENISTE:

16 Q Did there come a time when you determined  
17 that you would like to pursue a business opportunity  
18 regarding a sweatshirt or other type of T-shirt  
19 material that had the acronym "BITCH"?

20 A Yes.

21 Q When was that?

22 MR. GIUFFRA: I want to object to this

1 question also. What does this have to do with Senate  
2 Resolution 120? This resolution has nothing to do  
3 with Ms. Lewis's business dealings. Under this  
4 theory of relevance, we could explore a myriad of  
5 businesses that are not before this Senate  
6 committee.

7 MR. BEN-VENISTE: Are you directing her not  
8 to answer about the acronym? Mr. Giuffra?

9 MR. GIUFFRA: Answer the question.

10 THE WITNESS: May I have the question read  
11 back, please.

12 (The reporter read the record as requested.)

13 THE WITNESS: November 1993.

14 BY MR. BEN-VENISTE:

15 Q That was the first time that you decided  
16 that you would pursue a business opportunity relating  
17 to BITCH?

18 A That was when I chose to act on the  
19 decision.

20 Q When did it first occur to you to go into  
21 this kind of a business opportunity?

22 A Off and on since 1987.

1 Q And in 1993, did it become a more  
2 attractive prospect to you, one that you wanted to  
3 follow up on?

4 A It was just at that point in time that I  
5 made a decision, not necessarily that it became a  
6 more attractive prospect.

7 Q Was it before or after the personal  
8 profiles of you had appeared in the press?

9 MR. FORSHEY: Mr. Ben-Veniste, I think we  
10 are very far afield at this time. This is certainly  
11 not relevant to anything I have seen in the Senate  
12 Resolution at this time.

13 I think it is a waste of time. You  
14 complained earlier about wasting time, and I think  
15 this is a perfect example of it.

16 MR. BEN-VENISTE: Thank you.

17 BY MR. BEN-VENISTE:

18 Q You may answer the question.

19 A To the best of my recollection, it was  
20 before.

21 Q And what did you indicate the acronym stood  
22 for in 1993?

- 1 A "Boys, I'm taking charge here."  
 2 Q Anything else?  
 3 A "Bubba, I'm taking charge here."  
 4 Q Anything else?  
 5 A "Baby, I'm taking charge here."  
 6 Q Anything else?  
 7 A "Bill, I'm taking charge, Hilary."  
 8 Q What was your idea about this business  
 9 opportunity?  
 10 A It was an idea that I had come up with in,  
 11 I believe 1987, and I wished to pursue it and  
 12 possibly generate T-shirts and possibly coffee mugs,  
 13 Post-it notes, if I could find someone that might be  
 14 interested in following the concept of the "boys, I'm  
 15 taking charge here."  
 16 Q Did you do a proposal in writing somewhere?  
 17 A Yes.  
 18 Q And what was that proposal?  
 19 A It was a letter to I believe either two or  
 20 three companies outlining the general concept and  
 21 asking if there was an interest to produce T-shirts.  
 22 Q Did you receive a response back?

- 1 A Yes.  
 2 Q And were any of the companies interested?  
 3 A Yes.  
 4 Q And did you enter into some business  
 5 arrangement with them for the production of some  
 6 garments with the acronym BITCH on them?  
 7 A Yes.  
 8 Q When was that entered into?  
 9 A As best I recall, between December 1993 and  
 10 early February 1994.  
 11 Q While you were still at the RTC?  
 12 A That's correct.  
 13 Q And what company did you enter into an  
 14 agreement with?  
 15 A Lake Street T-shirts and Recycled Paper  
 16 Greetings.  
 17 Q Where are those companies located?  
 18 A Lake Street I believe is in Minneapolis,  
 19 Minnesota. Recycled Paper Greetings' offices are in  
 20 Chicago, Illinois.  
 21 Q In the proposal you made to those  
 22 companies, did you outline what the acronym "BITCH"



1 would stand for as you have testified here?

2 A Yes, I did.

3 Q Did you elaborate in any way?

4 A I don't recall elaborating.

5 Q Did you indicate to any of them where you  
6 were employed or what your connection to Madison or  
7 Whitewater might be?

8 A No, sir, not that I recall.

9 Q You expected that this would be a  
10 profitable enterprise?

11 A I hoped that it would generate some  
12 profits, yes.

13 Q And according to documents that have been  
14 provided to us, your attorney representing you in  
15 connection with that business venture is Mr. Forshey?

16 A Mr. Forshey is one of two counsel who  
17 represent me from Butler & Binion. It was another  
18 attorney at that time who was handling that matter  
19 for me.

20 Q And who was that?

21 MR. GIUFFRA: I would like to object to  
22 this question. I do not see what this has to do with

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1 Senate Resolution 120, a business venture in 1993 or  
2 in 1994.

3 MR. FORSHEY: I will join in that objection  
4 and again indicate that this is not only not relevant  
5 but it is a continued waste of time of this witness.

6 BY MR. BEN-VENISTE:

7 Q Do you remember his name?

8 A Yes, sir.

9 Q Who is it?

10 A Mr. Robert Curfis.

11 Q Can you spell that, please.

12 A Yes. C-u-r-f-i-s, as in Sam, S.

13 Q Do you have any other commercial ventures  
14 relating in any way to your experience at the RTC?

15 MR. FORSHEY: I will object to the form of  
16 the question. It assumes that the acronym you are  
17 talking about relates to anything she has done at the  
18 RTC.

19 MR. BEN-VENISTE: Okay.

20 BY MR. BEN-VENISTE:

21 Q You may answer.

22 A No, sir.



1 Q Have you proposed to write a book about  
2 your experiences?

3 A No, sir.

4 Q You have never written any outline?

5 A No, sir.

6 Q And had no discussions with anyone about  
7 writing a book?

8 MR. FORSHEY: I will object with regard to  
9 any discussions between my client and counsel.

10 You can answer the question.

11 THE WITNESS: No, sir, I have never  
12 discussed any intentions to write a book, if I  
13 understood your question correctly.

14 BY MR. BEN-VENISTE:

15 Q And you are not in the process of writing  
16 any book or article relating to your experiences as  
17 an RTC investigator?

18 A No, sir.

19 Q Now, with respect to the Cimmaron  
20 investigation, the reason why Mr. Noyes was not  
21 listed although he performed the majority of the  
22 work --

1 MR. GIUFFRA: Mr. Ben-Veniste, can I object  
2 here? We have already asked that you go to another  
3 subject.

4 MR. BEN-VENISTE: If you let me finish my  
5 question without interrupting.

6 BY MR. BEN-VENISTE:

7 Q It has been deferred for the moment. I  
8 would like to ask you now with respect to the  
9 Cimmaron referral whether PLS was contacted.

10 MR. GIUFFRA: Object to that question on  
11 the same grounds. It is outside the scope of Senate  
12 Resolution 120.

13 MR. BEN-VENISTE: That's absurd,  
14 Mr. Giuffra. You have suggested that there was some  
15 unusual factor associated with the consultation of  
16 PLS, and I am exploring that.

17 BY MR. BEN-VENISTE:

18 Q Now, again, Ms. Lewis, do you recall  
19 whether PLS was consulted in connection with the  
20 Cimmaron referral?

21 A I believe they were provided an advance  
22 review copy, yes, sir, I think so.

- 1 Q Who provided it to them?  
2 A One of our department clerks who generally  
3 made those copies and provided them.  
4 Q Lee Ausen was at that time in what capacity  
5 at RTC?  
6 A The department head of criminal  
7 investigations.  
8 Q So, he was your superior?  
9 A Correct.  
10 Q Let me show you what has been marked TS  
11 0357.  
12 (Exhibit TS0357 identified.)  
13 BY MR. BEN-VENISTE:  
14 Q I ask you whether you can identify that.  
15 (Witness examined the document.)  
16 A Yes, sir, I have seen this document  
17 before.  
18 Q What is it?  
19 A It is an internal memoranda from Mr. Ausen  
20 to Ms. Kim Claxton, senior attorney, regarding the  
21 Cimmaron Federal Savings criminal referral.  
22 Q Was there any objection to having PLS

- 1 review the Cimmaron referral, as far as you know?  
2 A Not that I am aware of.  
3 Q Let me show you TS 1092.  
4 (Exhibit TS1092 identified.)  
5 BY MR. BEN-VENISTE:  
6 Q See if you can identify that.  
7 (Witness examined the document.)  
8 A Yes, sir. I have seen this.  
9 Q What is that?  
10 A It is an E-mail from Ms. Kimberly Claxton  
11 back to Mr. Ausen indicating that she has attached  
12 her comments concerning the Cimmaron referral and  
13 soliciting his contact if he had any questions.  
14 Q Do you know whether there was the exchange  
15 of information with respect to suggestions made by  
16 PLS in connection with the Cimmaron referral?  
17 A Yes, sir, there was.  
18 Q And was that something which the criminal  
19 investigations unit regarded as an unwanted intrusion  
20 into its work?  
21 MR. GIUFFRA: Read that question back,  
22 please.

1 (The reporter read the record as requested.)

2 THE WITNESS: It was something that  
3 investigations accepted as input from PLS.

4 BY MR. BEN-VENISTE:

5 Q When you say "accepted," was it accepted  
6 grudgingly or as an intrusive meddling with your  
7 work, or was it accepted as a constructive  
8 contribution, if you know, inasmuch as you were in  
9 charge of that?

10 A Your question with regard just to this  
11 particular referral that we were talking about here?

12 Q Cimmaron. We are talking about Cimmaron.

13 A As I recall, it was deemed something that  
14 was not necessary but something that would be  
15 reviewed nonetheless.

16 Q So you would say that it was not helpful to  
17 have PLS review Cimmaron, and their comments were not  
18 received as helpful suggestions?

19 A Their comments were received for review.

20 Q Have you finished your answer?

21 A Yes, sir.

22 Q Are you saying that they were not regarded

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1 as helpful?

2 MR. FORSHEY: Do you want to take a look at  
3 the comments?

4 BY MR. BEN-VENISTE:

5 Q Do you remember?

6 A May I review the comments? Do we have the  
7 attachment available?

8 Q I'm asking you whether you remember.

9 A I remember reviewing the comments that came  
10 back from Ms. Claxton, and I remember thinking that  
11 the issues raised should have been raised by the U.S.  
12 Attorney. I don't recall believing they were  
13 particularly helpful or not helpful.

14 Q When you say that you believe they were  
15 issues that should have been raised by the U.S.  
16 Attorney, the procedure was for PLS to review the  
17 material before it was sent to the U.S. Attorney;  
18 isn't that so?

19 A It became so at a point in time, yes, sir.

20 Q At some point after you sent RTC records to  
21 your attorney, Mr. Forshey, do you recall Mr. Forshey  
22 visiting with you and other of your colleagues?

1 A Yes.

2 Q When was that?

3 A June 1994.

4 Q Was that while you were still employed by  
5 RTC?

6 A I'm sorry? I misunderstood you. Why or  
7 while, when I was still employed?

8 Q Yes.

9 A Yes, sir.

10 Q Was Mr. Forshey representing any of the  
11 other individuals, as far as you know?

12 A No, sir, not as far as I know.

13 Q What was the purpose of the meeting?

14 A I had invited Mr. Forshey to attend a  
15 dinner with myself and some of my colleagues so he  
16 would get a general flavor for the atmosphere and the  
17 environment that we were working in and some of the  
18 circumstances that were surrounding the environment  
19 at the time.

20 Q So, was it the case that these individuals  
21 spoke in your presence to Mr. Forshey about their  
22 experiences with respect to the Madison referral?

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1 A I don't recall if we specifically discussed  
2 Madison or not.

3 Q How long did the meeting last?

4 A Two, maybe 2-1/2 hours. It was a dinner.

5 Q Where did it take place?

6 A In Kansas City.

7 Q Who attended?

8 A Mr. Iorio, Mr. Ausen, Mr. Gary Davidson,  
9 Mr. Mike Caron, myself and Mr. Forshey.

10 Q Were there any subsequent meetings among  
11 your colleagues with Mr. Forshey?

12 A No, sir, nothing I can recall at this  
13 point.

14 Q How much did you indicate in your criminal  
15 referral 0004 in 1992 was a loss attributable to the  
16 conduct that you were referring as the subject of  
17 your criminal referral?

18 A That loss is indicated on the first page of  
19 the referral, if I may see it as a reference.

20 Q Yes.

21 A Thank you. The dollar amount of the  
22 possible loss is estimated at between 350,000 up to



1 \$1 million.

2 Q Is there a form that is attached that would  
3 also indicate the amount of loss?

4 A No, sir, not that I'm aware of.

5 MR. BEN-VENISTE: It is five minutes to  
6 noon. You have requested that we take our luncheon  
7 recess earlier rather than later.

8 How much time would you request for lunch?

9 MR. FORSHEY: 45 minutes.

10 MR. BEN-VENISTE: That's fine. Let's say  
11 12:45.

12 (Whereupon, at 11:55 a.m., the deposition  
13 was recessed, to be reconvened at 12:45 p.m. this  
14 same day.)  
15  
16  
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1 AFTERNOON SESSION (12:53 p.m.)

2 Whereupon,

3 L. JEAN LEWIS

4 resumed the stand and, having been previously duly  
5 sworn, was examined and testified further as follows:

6 EXAMINATION (Continued)

7 BY MR. BEN-VENISTE:

8 Q Ms. Lewis, I believe when we broke I was  
9 asking you whether there was a form on the criminal  
10 referral --

11 MR. FORSHEY: I'm sorry, Mr. Ben-Veniste, I  
12 did want to indicate for the record we were scheduled  
13 to be back at 12:45. We are beginning at 12:53.

14 BY MR. BEN-VENISTE:

15 Q With respect to where we left off,  
16 Ms. Lewis, I was asking you whether there was a form  
17 on the criminal referral which you sent in in 1992  
18 related to Madison for the amount of loss known. I  
19 would direct your attention to the document Bates  
20 stamped 6713, which is attached to the criminal  
21 referral, and see whether that refreshes your  
22 recollection.



1 (Exhibit 6713 identified.)

2 (Witness examined the document.)

3 THE WITNESS: Yes, sir, it does. This is  
4 not an attachment to the referral, per se. It is  
5 actually part of the body of the form. I understood  
6 your question to be was there a separate form  
7 attached to the referral, and this is actually part  
8 of the referral.

9 BY MR. BEN-VENISTE:

10 Q So, as part of the referral, there is a  
11 form that reflects the amount of loss known as the  
12 result of the alleged violation; correct?

13 A No, sir.

14 Q Well, would you explain what that form is?

15 A I would be glad to. This particular  
16 section deals with predominantly civil losses that  
17 may have already been identified with regard to the  
18 institution. It is not generally used to identify  
19 information regarding the alleged loss because we  
20 have no proof of an alleged loss at the time that the  
21 referral is made; we have only an allegation of  
22 loss.

1 Q So, you would never fill out that form?

2 A No, sir. It was not my practice.

3 Q Let me see if I can help you by refreshing  
4 your recollection. I direct your attention to 6919,  
5 which appears to be a referral from 1993, to the  
6 amount of loss known, and see whether that was  
7 something that you filled out on that occasion.

8 (Exhibit 6919 identified.)

9 (Witness examined the document.)

10 THE WITNESS: Yes, sir. Evidently  
11 Mr. Noyes put this information in here.

12 BY MR. BEN-VENISTE:

13 Q Mr. Noyes put the information in on what?

14 A On this particular referral, which I think  
15 we agreed we identified by the last three numbers as  
16 number 211.

17 Q What referral is that? What institution?

18 A Madison Guaranty Savings.

19 Q And was that a departure from practice to  
20 put that number in?

21 A It was a departure from my individual  
22 practice.

1 Q So, you never put it in?

2 A Not that I recall.

3 Q Did you know of any loss associated with  
4 the activity which was the subject of your criminal  
5 referral in 1992?

6 A Specific loss?

7 Q Yes.

8 A No, sir, I did not know the specific dollar  
9 amount.

10 Q Did you know of any dollar amount that was  
11 specifically lost, known loss?

12 A I was aware there was -- I'm confusing in  
13 my own mind loss with litigation. I was aware there  
14 was litigation against the Frost Company. To answer  
15 your question, no.

16 Q The answer is that you did not know of any  
17 specific amount lost?

18 A No.

19 Q Before we left for lunch, I had asked you  
20 about a conversation which you had with Mr. Iorio, in  
21 which Mr. Iorio explained to you why your name  
22 instead of Mr. Noyes's name would appear on the

1 Cimmaron referral. Would you be kind enough to  
2 provide your recollection of that conversation?

3 A Just as a matter of clarification, I had  
4 previously been instructed not to answer until a  
5 later time when issues were resolved.

6 Q Apparently they are resolved, since we are  
7 not hearing anything from Mr. Giuffra at the moment.

8 MR. GIUFFRA: I object to the question for  
9 the same grounds I stated previously.

10 MR. BEN-VENISTE: The objection is noted.

11 THE WITNESS: Yes, sir, I do recall that  
12 conversation with Mr. Iorio.

13 BY MR. BEN-VENISTE:

14 Q Who was present?

15 A I believe Mr. Ausen, Mr. Iorio, Mr. Noyes  
16 and myself.

17 Q And where did the conversation take place?

18 A In our offices in Kansas City.

19 Q About how long in advance of the submission  
20 of the criminal referral did this conversation take  
21 place?

22 A As best I recall, it was prior to the

1 referral even being drafted.

2 Q Who drafted the referral?

3 MR. GIUFFRA: Mr. Ben-Veniste, I would like  
4 to state another objection on the record and ask  
5 Ms. Lewis not to answer further questions with regard  
6 to this referral until you at least articulate for  
7 the record how this connects with Senate Resolution  
8 120.

9 MR. BEN-VENISTE: I have already done that,  
10 Mr. Giuffra. If you direct her not to answer, then  
11 we will take it up with the chairman.

12 MR. GIUFFRA: In order to truncate this  
13 process, I have already advised both the chairman and  
14 Mr. Chertoff about the scope of your examination with  
15 regard to this referral. And it is the chairman's  
16 considered view that it would be outside the scope of  
17 Senate Resolution 120 unless you can articulate some  
18 basis.

19 MR. BEN-VENISTE: The basis I have  
20 articulated already on the record is that you have  
21 suggested in your questioning of Ms. Lewis earlier in  
22 this deposition process that Ms. Lewis was put on

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1 administrative leave with the implication that there  
2 was no basis for it. I'm now exploring one of the  
3 bases for it.

4 BY MR. BEN-VENISTE:

5 Q Now who drafted the Cimmaron criminal  
6 referral?

7 MR. GIUFFRA: Are you aware of any evidence  
8 in the record that indicates that Ms. Lewis was put  
9 on administrative leave for anything having to do  
10 with the Cimmaron referral?

11 MR. BEN-VENISTE: Yes. If you would review  
12 the records that have been provided to this  
13 committee, you would know about it also.

14 THE WITNESS: May I have the question  
15 reread, please?

16 BY MR. BEN-VENISTE:

17 Q Who drafted the Cimmaron referral?

18 A It was predominantly Mr. Noyes, with some  
19 additional input from me.

20 Q Prior to the drafting of the Cimmaron  
21 referral, what was the conversation between you,  
22 Mr. Noyes and Mr. Iorio about why your name would



1 appear and not Mr. Noyes's?

2 A Mr. Noyes had previously been the managing  
3 agent of Cimmaron Federal Savings prior to his  
4 joining the investigative department. Due to the  
5 circumstances under which Mr. Noyes had left that  
6 particular position, Mr. Iorio did not wish to make  
7 an obvious affiliation between Mr. Noyes and any  
8 continuing investigation of that particular  
9 institution, which had been assigned to me, and I had  
10 a very strong working knowledge of it, as did  
11 Mr. Noyes. So the decision was made at that point  
12 that Mr. Noyes would write it, and I was asked to  
13 sign it.

14 Q The reason had nothing to do with the fact  
15 that you were working on Madison in some other  
16 capacity, even though you had been relieved from  
17 responsibility as a criminal investigator at that  
18 point; is that correct?

19 A That's correct.

20 Q And if I understand what you are saying is  
21 Mr. Iorio thought there might be some adverse  
22 reaction to Mr. Noyes being associated with this

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1 criminal investigation relating to Cimmaron?

2 A Yes, sir.

3 Q And he did not want to disclose that fact;  
4 correct?

5 A Yes, sir.

6 Q Is the criminal referral something that  
7 goes to the criminal defendant if charges are  
8 brought, or is this a confidential investigative  
9 document?

10 A It is a confidential investigative  
11 document.

12 Q And you know from your experience as a  
13 criminal investigator that that confidential  
14 investigative document is not producible to the  
15 defendant in a criminal case; isn't that so?

16 A I'm not completely cognizant of all the  
17 rules of criminal procedure, but that is my basic  
18 understanding, yes.

19 Q So, it was to keep Mr. Noyes's involvement  
20 in the criminal referral from the U.S. Attorney's  
21 Office and the FBI, that his name did not appear on  
22 it?

1 A No, sir.

2 Q Who else did this criminal referral go to?

3 A Professional Liability Section.

4 Q And you wanted to keep from the

5 Professional Liability Section the fact that

6 Mr. Noyes was involved in the investigation because

7 of Mr. Noyes's prior association with the

8 institution?

9 A That's my understanding, yes, sir.

10 Q Is that because there would be something

11 wrong with Mr. Noyes or unethical about Mr. Noyes

12 being involved?

13 A The circumstances revolving around

14 Mr. Noyes's removal from Cimmaron had something to do

15 with an ethical situation, and I believe that

16 factored into Mr. Iorio's decision.

17 Q Could you explain that?

18 A I don't really have enough knowledge to

19 offer a cogent explanation.

20 Q What was explained to you, if you would

21 please provide it?

22 A There was a personnel situation that

1 existed within the institution. Mr. Noyes had some

2 involvement in that particular situation, created

3 some sort of a conflict. And as a result, the staff

4 of field management who handled the managing agents

5 made a decision to remove him from that institution.

6 Q So he got fired from Cimmaron? Is that

7 what you are saying?

8 A He was removed from Cimmaron. I wouldn't

9 characterize it as being fired, no, sir, because he

10 retained his employment with the RTC.

11 Q Okay. Who was he working for at this

12 time? I'm sorry. I missed the central part of what

13 you said. Could you explain again who Mr. Noyes was

14 working for at the time of his association with

15 Cimmaron?

16 A As I understand the way that the

17 departments in the RTC function, there is a group

18 within the corporation that handles the management of

19 all field sites, managing agents, assistant managing

20 agents and personnel-like stature. Mr. Noyes was at

21 that time reporting up through whoever was managing

22 that particular area for the RTC that handled field



1 operations, I believe it was called.

2 Q So, he was working for the RTC and managing  
3 Cimmaron?

4 A Yes, sir.

5 Q And then he was removed from that  
6 assignment?

7 A That's correct.

8 Q And the fact that he was removed from the  
9 assignment you are saying, according to what  
10 Mr. Iorio told you, was the reason why Mr. Noyes's  
11 name shouldn't appear?

12 A Mr. Iorio told me he felt there would have  
13 been a conflict for Mr. Noyes's name to have appeared  
14 on the referral, and that was his judgment.

15 Q Well, either there is a conflict because of  
16 the underlying action or there isn't. The conflict  
17 would not, I hope you will agree, arise from the fact  
18 that his name is placed on something that he did.

19 MR. FORSHEY: I'm going to object to the  
20 question. The question posed was what she was told  
21 by Mr. Iorio. I don't think she has indicated she  
22 has any other independent knowledge.

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1 BY MR. BEN-VENISTE:

2 Q You may answer, if you remember the  
3 question.

4 THE WITNESS: May I have the question back,  
5 please?

6 (The reporter read the record as requested.)

7 THE WITNESS: If I understand the question,  
8 the conflict that arose was as a result of the  
9 underlying action, and Mr. Iorio's concerns focused  
10 on the fact that there was some public knowledge  
11 within the RTC of those actions, and he wished to  
12 avoid questions or confrontations with PLS by  
13 avoiding putting Mr. Noyes's name on the referral.

14 BY MR. BEN-VENISTE:

15 Q Mr. Iorio recognized that as a result of  
16 Mr. Noyes's prior experience with Cimmaron, there was  
17 a conflict with his doing the criminal investigation;  
18 correct?

19 A No, sir.

20 Q What is the conflict that you have just  
21 identified?

22 A There was no conflict in Mr. Noyes actually

1 doing the criminal investigation or the work within  
2 the department. The conflict, as I understand it  
3 from Mr. Iorio, existed in that the field operations  
4 people and other departments within the RTC were  
5 aware of reasons that Mr. Noyes was pulled off of  
6 this assignment that had to do with a personnel  
7 matter, not anything that had to do with his actual  
8 hands-on work there.

9 Q What was the conflict there? Was it a  
10 conflict of interest?

11 A All I can attest to is what Mr. Iorio  
12 indicated to me, that he believed it would have been  
13 a conflict and wished to avoid creating any further  
14 problems for Mr. Noyes being involved at all with  
15 Cimmaron.

16 Q But, in fact, it was Mr. Iorio who directed  
17 Mr. Noyes to become involved and to take the laboring  
18 war on the Cimmaron investigation, if I understand  
19 your prior testimony?

20 A That's correct.

21 Q And that's the reason why you went along  
22 with the proposal to put your name on the referral,

1 even though you didn't write it and even though you  
2 weren't the principal investigator?

3 MR. GIUFFRA: Objection. You are  
4 mischaracterizing her testimony.

5 BY MR. BEN-VENISTE:

6 Q You may answer.

7 A Cimmaron was my institution. I had a very  
8 cognizant working knowledge of it. I was perfectly  
9 capable of writing the referral and worked with  
10 Mr. Noyes in some capacity, having done that.

11 Q As I understand your testimony, you were  
12 not the principal author of the referral, nor were  
13 you the individual who spent the most time on the  
14 referral; that was Mr. Noyes in both respects?

15 A That is correct.

16 Q So, my question is, is the explanation  
17 provided by Mr. Iorio the only reason why you agreed  
18 to sign the criminal referral instead of Mr. Noyes?

19 MR. GIUFFRA: Read that question back,  
20 please.

21 THE WITNESS: It sounded like there was  
22 something missing in the question.

1 (The reporter read the record as requested.)

2 THE WITNESS: No, sir.

3 BY MR. BEN-VENISTE:

4 Q What was the reason?

5 A I had an additional investigation underway  
6 at that time of another institution with serious  
7 statute problems and I was trying to address that as  
8 well.

9 Q Because you had another institution that  
10 had serious statute-of-limitations problems was the  
11 reason why you signed the Cimmaron criminal referral  
12 even though Mr. Noyes had written it and even though  
13 Mr. Noyes had done the majority of the work? That's  
14 the explanation?

15 MR. GIUFFRA: Do you need that question  
16 read back? It has a lot of assumptions built into  
17 it.

18 MR. BEN-VENISTE: We will take as much time  
19 as you want, Bob. We will finish this depo today.

20 THE WITNESS: I would like to have that  
21 read back. I would like to offer some  
22 clarification.

1 (The reporter read the record as requested.)

2 THE WITNESS: There are a lot of questions  
3 in there.

4 MR. GIUFFRA: Can you answer the question  
5 or is it too confusing?

6 THE WITNESS: It is not a yes or no  
7 question.

8 BY MR. BEN-VENISTE:

9 Q You can provide a yes or no explanation.

10 A It was Mr. Iorio's desire that this  
11 criminal referral on Cimmaron be completed in an  
12 expeditious manner. Because I was the lead  
13 investigator assigned to it and he knew Mr. Noyes had  
14 a strong working knowledge of what happened at  
15 Cimmaron.

16 He was also aware of my existing statute  
17 situation with this other thrift, he made the  
18 determination for a number of reasons that Mr. Noyes  
19 and I should both look at this referral. He would do  
20 most of the drafting and I would do some of the  
21 editing. I would sign it and it would go in and  
22 concurrently I would continue working on this short

1 term statute-of-limitations issue.

2 Q What institution had the short term statute  
3 problem?

4 A Libertyville Savings of Libertyville,  
5 Illinois.

6 Q Did you file a criminal referral regarding  
7 that institution?

8 A No, sir.

9 Q You never did?

10 A No, sir.

11 Q Was the statute problem a criminal statute  
12 problem or civil statute problem?

13 A Criminal statute.

14 Q Why was it that you didn't file a referral  
15 in the institution that had the statute problem?

16 A The potential criminality that had occurred  
17 had occurred at such a point in time in the 1980s  
18 that there was not adequate time when Kansas City  
19 investigations inherited the thrift from the Chicago  
20 office to conduct a full-blown investigation,  
21 generate referrals and provide the FBI with  
22 sufficient time to conduct an investigation prior to

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1 the expiration of the statute dates.

2 Q When were you first assigned to that  
3 institution?

4 A Sometime in 1993, I think.

5 Q When in 1993?

6 A Whenever the Chicago institution's records  
7 were shifted to Kansas City in 1993.

8 Q Tell me the name of the institution.

9 A Libertyville.

10 Q Where is it located?

11 A In Illinois.

12 Q In Libertyville, Illinois?

13 A Yes.

14 Q When did the statute run, as you  
15 understood?

16 A Late January, early February '94, as I  
17 recall.

18 Q What was the nature of the allegation that  
19 you were investigating?

20 A Bank fraud.

21 Q And what was the size of the loss in that  
22 case?



1 A Libertyville, as I recall, had created a  
2 multimillion dollar loss. I don't remember the exact  
3 dollar amount.

4 Q 2 million? 50 million? A hundred million?

5 A It was substantial.

6 Q Well, 2 million is substantial to me. So  
7 we have a different frame of reference here.

8 A I'm sorry. I can't give you the exact  
9 number, what it was.

10 Q I'm not asking you for the exact number,  
11 Ms. Lewis. I'm asking you for a ballpark figure.  
12 Was it 100 million? 200 million?

13 A Mr. Ben-Veniste, I hesitate to even  
14 ballpark. I honestly don't remember.

15 Q You have no idea?

16 A I just don't recall.

17 Q But that was the matter that Mr. Iorio  
18 assigned you to as the principal criminal  
19 investigator?

20 A I believe Mr. Ausen assigned me to that  
21 task.

22 Q Did he assign you the task as the principal

1 criminal investigator?

2 A Yes.

3 Q And so sometime in 1993, you don't know  
4 when, you were assigned that task?

5 A Yes.

6 Q And now we are in 1994. Do you remember  
7 when the Cimmaron referral was made?

8 A No, sir, not off the top of my head I  
9 don't.

10 Q Let's see if we can refresh your  
11 recollection.

12 It appears from our records that the  
13 criminal referral was produced in April or May of  
14 1994. Would you check that to see whether that  
15 comports with your recollection as refreshed.

16 (Witness examined the document.)

17 A Yes, because Mr. Noyes would have been  
18 working on it through February and March and probably  
19 drafting it before this time frame.

20 Q But you say the statute of limitations had  
21 already run on Libertyville in February of 1994?

22 A I think I said as I best recalled. I could



1 probably refresh that recollection with other  
2 documents.

3 Q What document would you use?

4 A Whatever was available in my Libertyville  
5 files.

6 Q Do you have those with you?

7 A No, sir. I don't believe they were asked  
8 for.

9 Q Do you have them at home?

10 A No, sir.

11 Q Where would they be?

12 A At the RTC.

13 Q Had the individuals who were responsible  
14 for the bank fraud in Libertyville ever been  
15 prosecuted before, as far as you know?

16 A No.

17 Q And how close did you come to completing  
18 your assignment before the statute of limitations ran  
19 in that case and you were foreclosed from a  
20 prosecution of the individuals involved in that  
21 fraud?

22 A From the time the institution was assigned

1 to me until those statutes ran, I recall having the  
2 impression there was not adequate time to conduct a  
3 normal, standard investigation to allow for the  
4 decision to be made as to whether or not referrals  
5 should be submitted.

6 Q So, how far along were you in your  
7 investigation at the time that you concluded that you  
8 wouldn't be able to finish before the statute of  
9 limitations ran?

10 A As I recall, it was sometime in January  
11 1994.

12 Q And how much time had you spent on  
13 Libertyville in 1993?

14 A I don't recall the number of hours, but it  
15 was after Madison and then up through the first of  
16 the year.

17 Q Roughly how many hours did you spend on  
18 this investigation?

19 A Somewhere between 20 and 200.

20 Q That's your best estimate?

21 A That's my best estimate.

22 Q It could have been as little as 20 hours?

1       A   Mr. Ben-Veniste, I was responsible for well  
2 over 40 thrifts, a lot of which had concurrent issues  
3 happening at the same time, and it is difficult for  
4 me to approximate the time that I spent on any one of  
5 those given institutions.

6       Q   Did you ever have any contact with any FBI  
7 or Department of Justice representative in connection  
8 with Libertyville?

9       A   No, sir.

10      Q   Is there some form that gets filled out --  
11 strike that.

12           Was there some form in 1994 that was filled  
13 out or some memorandum required to be made when a  
14 case of fraud could not be adequately investigated  
15 before the running of the statute of limitations?

16      A   There was no specific formatted document  
17 that I recall.

18      Q   Was there a closeout of the investigation?

19      A   I recall advising Mr. Iorio and Mr. Ausen  
20 both by E-mail of the statute problems and that it  
21 was my recommendation that it not be any further  
22 pursued for those reasons.

1      Q   When do you recall E-mailing Messrs. Iorio  
2 and Ausen?

3      A   Again, my best recollection would be  
4 sometime in January 1994.

5      Q   Were there any other institutions where you  
6 had a similar problem where there was a case of  
7 criminal fraud in 1993 or '94 that you weren't able  
8 to investigate adequately in time to beat the statute  
9 of limitations?

10     A   I don't recall.

11     Q   There might have been, but you don't  
12 recall?

13     A   I don't recall.

14     Q   What did Mr. Iorio and Mr. Ausen reply to  
15 you?

16     A   They concurred with my assessment regarding  
17 the statute problem.

18     Q   So, they said, okay, drop it, close it out?

19     A   Yes, sir.

20     Q   Was it referred for civil fraud?

21     A   No, sir, not that I'm aware of.

22     Q   Why was that?

1 A The civil statutes would have long since  
2 run prior to the criminal statutes.

3 Q So this was the last chance to get any kind  
4 of reimbursement from the perpetrators of the  
5 Libertyville fraud?

6 A That's correct.

7 Q Did you have any reason to believe that  
8 those individuals were impecunious?

9 A Yes.

10 Q And what was that reason?

11 A Based on a review of the documents I  
12 received from the investigator who had conducted the  
13 civil and partial criminal investigation in Chicago,  
14 there was enough there to warrant additional  
15 investigation.

16 Q Maybe you didn't understand my question.

17 The case had been investigated previously  
18 by a civil investigator in Chicago.

19 A Yes, sir.

20 Q Do you remember who that was?

21 A No, sir, I don't.

22 Q You had liaison with that individual so you

1 didn't have to reinvent the wheel as far as what had  
2 been done before?

3 A No liaison, but we received the records in  
4 the Kansas City office.

5 Q You had no other conversation?

6 A No, sir.

7 Q When did it appear to you that you weren't  
8 going to be able to make the statute of limitations  
9 cutoff for the first time?

10 A I can't recall a date.

11 Q Well, was it something in advance of  
12 January 1994, or did it just hit you in January of  
13 '94 that you weren't going to be able to make it?

14 A It seems to me it was before January of  
15 1994, because I recall having looked at it in  
16 November and December.

17 Q When you say "looked at it," what do you  
18 mean?

19 A Reviewed documents.

20 Q Did you explain to Mr. Iorio or Mr. Ausen  
21 or anyone else that you better get some more help  
22 fast or you were going to blow the statute of

1 limitations on Libertyville?

2 A No, sir.

3 Q Why was that?

4 A It was my assessment, regardless of the  
5 number of people, to put on a case like that to  
6 investigate in that short of a time frame with the  
7 statute running like that, there was no way it could  
8 be done.

9 Q So, things had not progressed sufficiently  
10 as of November or December of 1994 so that even if  
11 you had put a whole task force on it, you still  
12 couldn't have pulled it together?

13 A It was an inherited investigation, and the  
14 criminal responsibility was to revisit and ensure  
15 that everything had been done that could be done.

16 Q But you made no criminal referral, despite  
17 the fact that you thought fraud had occurred?

18 A That's correct.

19 Q Let's move on.

20 MR. BEN-VENISTE: Let's mark this as  
21 Deposition Exhibit 1.

22 (Lewis Exhibit 1 identified.)

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1 MR. GIUFFRA: Can I see a copy of that?

2 MR. BEN-VENISTE: You can see the whole  
3 thing.

4 (Pause.)

5 BY MR. BEN-VENISTE:

6 Q Ms. Lewis, let me show you what is a LEXIS  
7 report of a Newsweek magazine story. You are  
8 chuckling, so I guess you have seen it before; is  
9 that right?

10 A Yes, sir, you are correct.

11 Q Could you read that first paragraph,  
12 please, that is underlined in yellow.

13 A "Whitewater is at least good for business.  
14 Jean Lewis, the original whistleblower whose charges  
15 of a coverup helped persuade Congressional  
16 Republicans to look into the scandal, has decided to  
17 market T-shirts, bumper stickers and Post-it notes.  
18 One of the logos thought up by the Resolution Trust  
19 Corp. investigator, according to a retainer agreement  
20 signed with a Dallas law firm, is BITCH, short for  
21 'Boys, I'm taking charge here,' or 'Bill, I'm taking  
22 charge, Hillary.'"



1 Q Did you read that article when it came out  
2 more or less contemporaneous with its publication?

3 A Yes, sir. It was a few days after it came  
4 out, but I read it.

5 Q Had you spoken to anyone from Newsweek  
6 prior to that article coming out?

7 A Immediately prior to this article? No,  
8 sir.

9 Q A reference is made to a retainer agreement  
10 with a Dallas law firm. Do you know what that refers  
11 to?

12 A I would have to assume that it refers to  
13 the engagement agreement between myself and Butler &  
14 Binion.

15 Q Did you make that available to anyone, that  
16 agreement available?

17 A No, sir, not on purpose.

18 Q What is the reference to the connection  
19 between the BITCH project and the retainer  
20 agreement?

21 MR. FORSHEY: Counsel, I'm going to stop  
22 you right there. To the extent you are inquiring

1 about matters that deal with attorney-client  
2 privilege between my client and myself, I am going to  
3 instruct her not to answer that.

4 The retainer agreement that has been  
5 referred to frankly is another appalling set of  
6 circumstances where someone appears to have lifted a  
7 document marked personal, confidential and privileged  
8 to Ms. Lewis and apparently forwarded it to members  
9 of Congress, then had it distributed around  
10 Congress.

11 The document that is referred to, as I have  
12 seen it, is an unsigned document. Nonetheless, it is  
13 still an appalling situation. I'm going to instruct  
14 her not to answer anything that reflects our  
15 attorney-client privilege.

16 MR. BEN-VENISTE: I wouldn't ask her to  
17 reveal something that is confidential. But as  
18 counsel has just indicated, this is something that  
19 has been in the public domain.

20 MR. FORSHEY: Counsel, I will point out  
21 that for that privilege to have been waived in any  
22 way, that has to be an intentional relinquishment.



1 There was no such intentional relinquishment.

2 MR. BEN-VENISTE: Are you saying that was  
3 an attorney-client communication that was  
4 misappropriated by someone?

5 MR. FORSHEY: That's correct.

6 BY MR. BEN-VENISTE:

7 Q Where was it misappropriated from,  
8 Ms. Lewis, if you know?

9 A A fax machine at the Resolution Trust  
10 Corporation in Kansas City.

11 Q So, a confidential attorney-client document  
12 was sent on a fax machine to the RTC in Kansas City?

13 A That is correct.

14 Q Was that your personal fax machine?

15 A No, sir.

16 Q Whose fax machine was it?

17 A It belonged to the RTC.

18 Q Who had access to it?

19 A Anyone in the investigations department.

20 MR. BEN-VENISTE: Mr. Forshey, I don't know  
21 how they practice law in Texas, but "confidential"  
22 means that you are supposed to do something to

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1 protect confidentiality.

2 MR. FORSHEY: As a matter of fact, there  
3 was something specifically done to protect the  
4 confidentiality of that document. It included a  
5 cover page that indicates it is directed to the  
6 recipient only and that anyone who is in receipt of  
7 it should only deliver it to the recipient, should  
8 not look at it or do anything further with it. That  
9 clearly was not done.

10 MR. BEN-VENISTE: Do you have a copy of  
11 that cover letter? You assume I am familiar with  
12 it. I will tell you I am not. If you have a copy of  
13 it, I will be pleased to look at it.

14 MR. FORSHEY: I do not have a copy of it,  
15 Counsel. I am telling you that cover letter exists  
16 and it was a confidential communication and was  
17 intended to be such.

18 MR. BEN-VENISTE: Was there some urgency  
19 about it that it couldn't be mailed in a sealed  
20 envelope?

21 MR. GIUFFRA: Can I object to this whole  
22 line of questioning. It is irrelevant and a waste of

1 time. When are we going to deal with the basis of  
2 her testimony instead of this irrelevant nonsense  
3 about BITCH and her retainer agreement with her law  
4 firm?

5 MR. BEN-VENISTE: If you will stop  
6 cluttering up the record with these comments, we will  
7 move ahead.

8 MR. GIUFFRA: This has turned into a giant  
9 fishing expedition.

10 MR. BEN-VENISTE: I don't think it is  
11 fishing. Here is a news story that talks about a  
12 retainer agreement that apparently was in possession  
13 of the newspaper.

14 MR. GIUFFRA: There are newspaper articles  
15 about all sorts of things involving this matter, many  
16 of which you would vociferously object to our  
17 investigating.

18 MR. BEN-VENISTE: Here we are talking about  
19 an agreement that this witness has testified was a  
20 business idea that she thought of and was engaged in  
21 at the time that she was working for the RTC, and  
22 here is a public story about it. So, I don't

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1 understand what fishing would have to do with that,  
2 Mr. Giuffra. Your idea of fishing is clearly  
3 different than mine.

4 BY MR. BEN-VENISTE:

5 Q So, you are refusing to provide any further  
6 details about the document that is referenced in this  
7 newspaper article or magazine article that has been  
8 marked as Lewis Exhibit 1; is that correct?

9 MR. FORSHEY: Based upon the advice of  
10 counsel.

11 THE WITNESS: Yes, sir, on the advice of  
12 counsel.

13 BY MR. BEN-VENISTE:

14 Q Did you receive any communication or have  
15 any conversation with any individual from the FBI in  
16 Little Rock or the U.S. Attorney's Office in Little  
17 Rock during late 1992 or early 1993 about providing a  
18 referral for First Federal of Little Rock or Savers  
19 Savings Bank?

20 A Not that I recall.

21 Q How about going further into 1993. When is  
22 the first time you recall, if at all, anyone from the

1 U.S. Attorney's Office or the FBI bringing to your  
2 attention a request for investigative assistance with  
3 respect to First Federal of Little Rock or Savers  
4 Savings Bank?

5 A I don't recall any specific conversations  
6 with FBI or U.S. Attorney personnel on those two  
7 institutions in that time frame.

8 Q Did you receive during the same time  
9 frames, 1992 and 1993, any communication from anyone  
10 outside of those agencies, that is, the FBI and the  
11 U.S. Attorney's Office, with respect to  
12 communications they had received from the FBI or U.S.  
13 Attorney's Office regarding First Federal of Little  
14 Rock or Savers Savings Bank?

15 A May I ask you to reiterate that specific  
16 time frame for me again?

17 Q 1992, 1993. You have testified about a  
18 December 1991 conversation with Special Agent Irons.  
19 Now I'm taking you through 1992 and 1993.

20 A I recall a conversation when an RTC senior  
21 investigative specialist from the Washington office  
22 contacted me. I don't recall the date. But he asked

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1 if I was aware of and was the lead investigator for  
2 Savers and one other institution, and I believe I  
3 have seen a document to that effect, that I think  
4 would refresh my memory.

5 Q What is that document?

6 A It was an E-mail.

7 Q You think you have it in the materials that  
8 you sent us?

9 A I believe it might be in my admin file.

10 MR. BEN-VENISTE: Why don't we take a short  
11 recess now so you can look for it.

12 (Recess.)

13 BY MR. BEN-VENISTE:

14 Q Have you had the opportunity to review your  
15 file to see whether you could refresh your  
16 recollection with an E-mail that you thought was  
17 produced to us in your administrative file?

18 A Yes, sir. I have gone through the files in  
19 the condition they currently exist. Rather than  
20 waste a lot of time, I was not able to find it in the  
21 location where I thought it would be.

22 Q What location did you think it would be?



1 A Late 1993.

2 Q So the files are in the condition that you  
3 provided them to us through your counsel. To what  
4 condition are you talking about?

5 MR. FORSHEY: No, Counsel, I don't believe  
6 they are. I believe these are copies of what was  
7 provided to you in folder format. These are in a  
8 different format.

9 MR. BEN-VENISTE: It is in the order that  
10 was provided to us, as minority staff, from the  
11 materials that you provided.

12 BY MR. BEN-VENISTE:

13 Q You couldn't find it in the chronological  
14 order that you thought would be there?

15 A I was not able to locate it. I'm sorry.

16 Q What did you think there was in your file  
17 with respect to an E-mail on the subject?

18 A I recall the conversation with Mr. Donahue,  
19 and my best recollection is that I noted it in an  
20 E-mail and forwarded that on to Mr. Ausen and  
21 Mr. Iorio.

22 Q What did you think was contained in the

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1 E-mail?

2 A Just the content of Mr. Donahue's questions  
3 to me, that the FBI had contacted him and asked him  
4 who was the investigator on Savers and another  
5 institution and did I have plans to investigate them,  
6 and I told him that yes, I did, at a later date.

7 Q So this was in roughly what month, do you  
8 recall?

9 A Late 1993. I don't recall the specific  
10 month.

11 Q So you had gone from December of '91 to  
12 late '93, and you received this inquiry, and you said  
13 I'm going to do it when I get to it later; correct?

14 A I don't think that is an accurate  
15 characterization.

16 Q What had you done up to that point?

17 A I recall telling Mr. Donahue that Savers  
18 was going to be priority and would be addressed as  
19 soon as possible.

20 Q What had you done up to that point on  
21 Savers?

22 A I had reviewed some initial documents. I

1 had conducted an interview with a borrower from  
2 Savers who was a convicted felon that offered to talk  
3 with us.

4 Q He called you or you called him in the  
5 first instance?

6 A He contacted us.

7 Q So, somebody contacted you and you agreed  
8 to interview that person. When was that, what year?

9 A I believe it was 1993.

10 Q What part of 1993?

11 A My best estimate is it was within the first  
12 six months of the year.

13 Q And you have no better way of establishing  
14 when that was?

15 A Possibly spring, but that's as close as I  
16 can get.

17 Q It was sometime when you were working on  
18 the Madison matter?

19 A Yes, sir.

20 Q So, you took time out from your work on the  
21 Madison matter and you interviewed this individual.  
22 Where did you conduct the interview?

1 A Houston, Texas.

2 Q You traveled to Houston?

3 A Correct.

4 Q And this individual said he had information  
5 that would be of interest to you in a criminal  
6 investigation relating to bank fraud?

7 A He said he had information that he would  
8 like to share with us regarding Savers Savings.

9 Q And the "us" meaning?

10 A The RTC criminal investigative group and  
11 PLS.

12 Q Did you travel there by yourself or were  
13 you with anyone else from RTC?

14 A I went with someone else.

15 Q Who was that?

16 A Ann Lewis-Richardson.

17 Q Did the individual provide useful  
18 information?

19 A He provided substantial documentation.

20 Q He gave you documents?

21 A Yes.

22 Q Did you have those documents before?



1 A No.

2 Q What did the documents establish?

3 A It was a variety of documents on a variety  
4 of topics that he believed to have been fraudulent  
5 that he recommended that we take a look at.

6 Q Did you agree that they seemed to establish  
7 fraud?

8 A I did not have an adequate opportunity in  
9 that two-day time frame to determine whether or not  
10 those documents established fraud but agreed to take  
11 them and look at them.

12 Q So, did you take them and look at them?

13 A Yes, sir. I took them back to Kansas  
14 City.

15 Q Did they tend to establish fraud?

16 A I did not conduct a complete review at that  
17 time.

18 Q When did you get to it?

19 A I provided those documents to the  
20 Professional Liability Section for use at their  
21 request.

22 Q When was that?

1 A I don't remember.

2 Q Approximately? A week later? 10 days?  
3 Six months?

4 A I think it was a significant amount of  
5 time.

6 Q How much?

7 A I don't know.

8 Q So, the documents just sat there, you  
9 didn't get to review them until they were sent along  
10 to PLS; is that right?

11 A I did an initial review when they came in,  
12 set them aside and then sent them to PLS at a later  
13 date.

14 Q You indicated that you didn't have time to  
15 review them over the two-day period that you looked  
16 at them, sufficient time, and then you set them  
17 aside. Did you write up any report about the fact  
18 that you had met with this individual and that he had  
19 provided documentation to you that in his view  
20 established fraud?

21 MR. GIUFFRA: Mr. Ben-Veniste, I will  
22 object to any further going down this line. This is

1 well beyond the scope of Senate Resolution 120. We  
2 are investigating Madison. We are not investigating  
3 other savings and loans and how she handled other  
4 investigations.

5 She worked on Madison because her  
6 supervisors told her to work on Madison. You are  
7 trying to impeach Ms. Lewis based on her handling of  
8 other matters. That would allow us to look into a  
9 whole wide range of matters with regard to every  
10 single witness that comes before this committee. You  
11 are singling her out for treatment that we have not  
12 afforded everyone else.

13 MR. BEN-VENISTE: Well, Mr. Giuffra,  
14 without taking a lot of time, you are wrong.

15 BY MR. BEN-VENISTE:

16 Q So, to go back to my question, Ms. Lewis,  
17 regarding Savers, did you communicate to anyone that  
18 you had interviewed this convicted felon who provided  
19 you with documentation which he said established  
20 fraud?

21 A Yes, sir.

22 Q Who?

1 A Someone within the U.S. Attorney's Office,  
2 and it was a joint communique from myself and Neysa  
3 Day to this individual indicating that this convicted  
4 felon had, in fact, cooperated with the RTC.

5 Q Was that in connection with pursuing the  
6 investigation of Savers? Or was that some letter  
7 that you had written at the request of this convicted  
8 felon for some purpose that he had?

9 MR. FORSHEY: I will object to the  
10 question. I understood Ms. Lewis to say that it was  
11 a joint communique, not something she had written.

12 BY MR. BEN-VENISTE:

13 Q With that amendment, can you answer?

14 A The gentleman in question had, in fact,  
15 asked us if we would communicate to the U.S. Attorney  
16 that he had cooperated.

17 Q So, he had cooperated with you, but you  
18 hadn't done anything to follow up on it? But you  
19 were willing to take the time to write the letter to  
20 at least tell the U.S. Attorney's Office that he had  
21 done that which he had told them he had done;  
22 correct?

1 A No. That's a mischaracterization.

2 Q Okay. You correct me.

3 A We brought the documents back to Kansas  
4 City. I did go through them, conducted an initial  
5 review and determined that there were matters there  
6 that should be further investigated. That  
7 investigation was slated for a later date. At this  
8 gentleman's request, Ms. Neysa Day and I complied  
9 with this request and advised the U.S. Attorney's  
10 Office that he cooperated, but not necessarily with  
11 regard to the specific criminal investigation that I  
12 was going to undertake on Savers.

13 Q Right. So, was it that he was going to be  
14 sentenced for some other crime?

15 A Yes.

16 Q So, he wanted to cooperate with the  
17 government because he was being sentenced for some  
18 other crime. Did that involve fraud?

19 A Yes.

20 Q So he was convicted of that fraud and was  
21 going to be sentenced for it?

22 A Correct.

1 Q And what was his name?

2 A Foy Phillips.

3 Q Where was he prosecuted?

4 A Can I confer with counsel for a brief  
5 moment?

6 Q Sure.

7 (Witness conferred with counsel.)

8 THE WITNESS: His trial took place in  
9 Houston, I believe it was the Seventh District of  
10 Texas.

11 BY MR. BEN-VENISTE:

12 Q So you and Ms. Day wrote to the U.S.  
13 Attorney or Assistant U.S. Attorney handling that  
14 case to corroborate the fact that this individual had  
15 cooperated by providing you with information?

16 A Correct.

17 Q Did you characterize the information that  
18 he had provided as helpful or useful?

19 A I don't recall how it was characterized  
20 within the context of the letter.

21 Q But you felt it was useful?

22 A I felt it could be useful, yes.

1 Q That's an important distinction, and I note  
2 that.

3 My initial question that elicited all of  
4 this about the letter of commendation for the  
5 cooperation of this convicted felon was whether you  
6 had communicated to the U.S. Attorney's Office or the  
7 FBI who had asked you to pursue the investigation of  
8 Savers that you had received documentary information  
9 from an inside source.

10 Did you understand my question?

11 A No, sir, you lost me on that one.

12 Q I will rephrase it. The FBI in 1991 asked  
13 you to pursue Savers; correct?

14 A Correct.

15 Q At some point in 1993, someone came in to  
16 you directly and said I have information for you  
17 about Savers, I will give you some documents that  
18 will show fraud. You thought that individual had  
19 provided you documents that warranted further  
20 review. You put it aside to review later; correct?

21 A Correct.

22 Q Now I'm asking you whether you got back to

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1 the FBI and said incidentally, I haven't had time to  
2 get into this Savers business, but you ought to know  
3 that I got some documents from Mr. X who thinks they  
4 establish fraud and he has given them to me? Did you  
5 do that?

6 A I don't recall if I contacted the FBI on  
7 that matter or not.

8 Q So when was it that you did get back to  
9 pursuing the Savers investigation?

10 A I didn't.

11 Q So, 1993 went by and 1994 went by; correct?

12 A Correct.

13 Q And what happened to the individuals in  
14 Savers? Were they prosecuted?

15 A I believe Mr. Noyes submitted additional  
16 referrals on Savers Savings.

17 Q Were they prosecuted?

18 A I don't recall.

19 Q Do you know when the statute ran?

20 A No, sir, I don't remember.

21 Q What about Arkansas Federal? Did you get  
22 to Arkansas Federal at all?



1 A I recall I opened a preliminary  
2 investigation on Ark Fed, yes, sir.

3 Q When was that, Ms. Lewis?

4 MR. GIUFFRA: Can we take a break right  
5 here?

6 MR. BEN-VENISTE: Mr. Giuffra, I really  
7 think you could take a break and your colleague could  
8 stay here so we don't have to interrupt this.

9 MR. GIUFFRA: I want to confer with  
10 Mr. Chertoff and also with the chairman to see  
11 whether you going into extensive discussion of every  
12 single matter that Ms. Lewis worked on has anything  
13 to do with Senate Resolution 120. You will not allow  
14 me to do that?

15 MR. BEN-VENISTE: I allowed you to do that  
16 over lunch and over a break when you rushed over  
17 here. If you have something to say in terms of  
18 directing a witness, then you ought to say it.

19 MR. FORSHEY: We are going to take a short  
20 break while you argue. The witness needs the  
21 opportunity for a break.

22 MR. BEN-VENISTE: If the witness would like

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1 a break, we would be pleased to accommodate Ms. Lewis  
2 as we have before.

3 MR. GIUFFRA: You can draw a connection  
4 between Cimmaron and the administrative leave issue.  
5 I don't see how you can draw a connection between  
6 these other S&Ls that Ms. Lewis was investigating and  
7 anything in the resolution.

8 MR. BEN-VENISTE: Well, it has to do with  
9 her communications with the FBI and what the  
10 priorities were and what the full state of the record  
11 will show in terms of why Madison was pursued in the  
12 way that it was. If you don't like that,  
13 Mr. Giuffra, and I presume you don't like that, then  
14 you can do what you think is necessary to try to  
15 foreclose us from looking at this. I don't think it  
16 is in your interest to do that, and I know it is not  
17 in this committee's interest to do that.

18 MR. GIUFFRA: Why don't I just go and  
19 confer.

20 MR. BEN-VENISTE: Why don't you just.

21 (Recess.)

22 (Lewis Exhibit 2 identified.)



1 MR. BEN-VENISTE: We are now proceeding in  
2 Mr. Forshey's absence with the agreement of the  
3 witness and Mr. Levin.

4 BY MR. BEN-VENISTE:

5 Q We have marked as Exhibit 2 a  
6 tape-recording which you have provided to us which is  
7 marked 2/2/94, conversation between RTC criminal  
8 investigator J. Lewis and FDIC PLS Attorney  
9 A. Breslaw.

10 Do you recognize that cassette?

11 A If this is what my attorney provided to  
12 you, then I will accept it as such.

13 Q Let me ask you, Ms. Lewis, whether you  
14 deliberately erased any portion of the original tape  
15 other than the portion that you recorded over to put  
16 your preface remarks on.

17 A No, sir, I did not.

18 Q And that goes for the front or the back  
19 side, the A side or the B side?

20 A That is correct.

21 Q And with respect to the A side, it is your  
22 testimony that quite clearly that that was recorded

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1 prior to the B side?

2 A Yes, sir.

3 Q No question in your mind about it?

4 A No, sir.

5 Q And that was recorded on the very same day  
6 as the A side; right?

7 A That is correct.

8 Q And you don't remember whether you had put  
9 in a fresh tape or it was a reused tape; correct?

10 When I say "tape," I mean microcassette.

11 A I don't recall.

12 Q I would like at this point to ask you  
13 whether the copy that was made, of which this is a  
14 copy, in fact, included everything that was on the  
15 tape that you provided to Independent Counsel?

16 A No, sir.

17 Q What was not included?

18 A The tape I provided to my counsel was only  
19 the B side of the tape with Ms. Breslaw's  
20 conversation. I did not give him a copy of the A  
21 side.

22 Q I understand that. Let me ask you then

1 more precisely whether everything on the B side is  
2 reflected on the copy that was made?

3 A To the best of my knowledge, yes.

4 Q I would like to play the tape from the very  
5 beginning and have you listen to it.

6 MR. GIUFFRA: Is it your plan to play  
7 through the whole tape?

8 MR. BEN-VENISTE: No.

9 MR. LEVIN: Which side are you on?

10 MR. BEN-VENISTE: I think I am on B. It  
11 may be the A side of the copy, but it is the B side  
12 of the original.

13 (Whereupon, the tape-recording, Exhibit 2,  
14 was played.)

15 BY MR. BEN-VENISTE:

16 Q Is it true, Ms. Lewis, that we played the  
17 tape up to the point where it says "come in, come in"  
18 did you hear your voice say that?

19 A Yes.

20 Q The preface reflected on the tape you have  
21 provided is not the preface that appears on the tape,  
22 is it? It is a preface of shorter duration than what

1 you actually put on the tape; correct?

2 A That's correct.

3 Q Now, I notice that there was a period, a  
4 little bit more than two minutes in length, where  
5 there was no apparent sound on the tape prior to your  
6 preface. Do you agree with that characterization?

7 A Yes.

8 Q Earlier you had indicated that there were  
9 some sounds of paper shuffling and bumps and keyboard  
10 noises. Do you recall that testimony?

11 A Yes, I do.

12 Q And how do you square that testimony with  
13 what you have just heard on this tape?

14 A There are sounds of paper shuffling and  
15 bumping and keyboard activity, and I know they are on  
16 the other side of the tape. When I made that  
17 testimony, I believe it to have been on the other  
18 side of the tape as well. Evidently I was mistaken.

19 Q So, it is your testimony now that you are  
20 quite sure there is no sound of papers bumping or  
21 keyboard sounds or general office noise on the  
22 tape-recording that you have presented to us which is

1 an exact copy of what you provided to the Independent  
2 Counsel?

3 A That is correct.

4 Q And why is it that you did not type up the  
5 preface language in the version that you provided to  
6 us?

7 A I don't recall thinking any particular  
8 reason why I should or should not at the time the  
9 transcript was prepared.

10 Q Now, as I heard, the very end of your  
11 preface seemed to run directly up to the start of the  
12 conversation reflected in the transcript. Was that  
13 your impression as well?

14 A Yes, sir.

15 Q How did you time it so that you wouldn't  
16 erase any portion of the tape when you did that?

17 A I don't recall exactly how I timed that.

18 Q Did you do it or did someone else do it?

19 A No, sir. I did it.

20 Q You did it all by yourself?

21 A Yes, sir. I prepared the opening comments  
22 that you heard leading up to "come in, come in" on my

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1 own, yes.

2 Q Did you prepare them first on another tape  
3 and then record them on to the original?

4 A No, sir. I recorded them directly on to  
5 the original.

6 Q What machine did you use?

7 A I don't remember if it was the old one that  
8 had malfunctioned or if it was after I had already  
9 purchased the new one, because it was the same time  
10 that I asked my husband to duplicate the tape.

11 Q So, when your husband duplicated the tape,  
12 you had already gotten the preface on there?

13 A That's correct.

14 Q And I believe you testified that you asked  
15 your husband to duplicate the tape about a week or so  
16 after you made the tape? Is that your recollection?

17 A I think that was my best recollection, yes,  
18 sir.

19 Q So, at some point during that week, you  
20 made the preface and dictated it on to the tape?

21 A No, sir. I dictated the preface on to it  
22 the very similar evening that my husband duplicated

1 the tape for me.

2 Q So, did he help you with the preface?

3 A No, sir.

4 Q How was it that you were able to make sure  
5 that you didn't erase over with your preface any of  
6 the dialogue that was on the original tape?

7 A As I recall, I wrote the preface, I picked  
8 up the recorder and I rewound it back to the  
9 beginning of the conversation, dictated the preface  
10 and took my best shot.

11 Q So, it is just a matter of fortuitous  
12 happenstance that you didn't run over the first part  
13 of the "come in, come in"?

14 A No, sir. I tried to make a conscious  
15 effort not to run over the "come in, come in."

16 Q Did you time it, how long it would take you  
17 to say the preface?

18 A No, I didn't.

19 Q With all of the more sophisticated  
20 tape-recording equipment that would be present in a  
21 radio newsroom, you chose to put the preface on with  
22 your tape-recorder, be it the new one or the old one?

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1 A That's correct.

2 Q And so, in order to establish whether you  
3 used the new tape-recorder or the old one to put this  
4 preface on, we would only have to go back to your  
5 record of purchasing the new tape-recorder, since  
6 that's on your credit card, or debit card, and that  
7 would tell us at least whether you had purchased the  
8 new one at a point subsequent to making the  
9 tape-recording; correct?

10 A I believe that would probably give us a  
11 much better answer.

12 Q If you had already purchased the new  
13 tape-recorder, would there be some reason to use the  
14 old one?

15 A No, sir.

16 Q Because you might be afraid it would  
17 malfunction again and cause some obliteration of the  
18 tape, which you didn't want to happen; right?

19 A Correct.

20 Q But as you sit here, you don't remember  
21 which one you used, whether you were worried that the  
22 tape might malfunction because you were using the old



1 one?

2 A No, sir, I do not recall which one I used.

3 Q Wouldn't that have been a concern to you  
4 that the old one might have malfunctioned in some way  
5 and destroyed all the good work you had done?

6 MR. FORSHEY: I will object to your  
7 characterization as good work she has done.

8 MR. BEN-VENISTE: Okay. So it is not good  
9 work.

10 THE WITNESS: I resent that  
11 characterization. I don't think that is accurate.

12 BY MR. BEN-VENISTE:

13 Q Well, if it wasn't good work, then I will  
14 accept it.

15 A I didn't say that, either.

16 MR. GIUFFRA: You have a long-standing  
17 interest in tape-recordings.

18 MR. BEN-VENISTE: Yes, I do. You are right  
19 about that.

20 THE WITNESS: Read back the question,  
21 please.

22 (The reporter read the record as requested.)

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1 THE WITNESS: The response to that is I'm  
2 sure if I was using the old one, it would have been a  
3 concern to try to get it to work appropriately.

4 BY MR. BEN-VENISTE:

5 Q So, do you remember that you had that  
6 concern when you wrote out this preface and then  
7 applied your voice to the original tape?

8 A No, I don't.

9 Q Does that lead you to believe that you  
10 probably had the new one at that point?

11 A It doesn't lead me to any conclusion.

12 Q And where did you perform this work?

13 A To which work are you referring?

14 Q The application of the preface onto the  
15 original tape-recording.

16 A In my husband's news studio.

17 Q Was your husband not present?

18 A He was present.

19 Q Did you discuss what you were doing?

20 A No, sir.

21 Q So that the preface would have been made  
22 roughly a week or 10 days, then, after the February



1 2nd original taping; we can pretty well establish  
2 that?

3 A I believe so, yes.

4 MR. BEN-VENISTE: At this point, I would  
5 make a request that I would hope Mr. Giuffra would  
6 join in for purposes of being able to have some more  
7 specificity on this for Ms. Lewis's debit card  
8 records for February and January of 1992 for the  
9 purpose of seeing whether we can get a better date on  
10 the purchase of the new equipment. I'm sorry. 1994  
11 that would be, not 1992.

12 Mr. Giuffra, do you join in that request?

13 MR. GIUFFRA: I will take it under  
14 advisement. It seems like something so far afield  
15 from what the Senate is presently investigating.

16 MR. BEN-VENISTE: I'm sure it would feel  
17 that way to you.

18 MR. GIUFFRA: I said it seems, not feels.

19 Mr. Ben-Veniste, it is now 2:30. When do  
20 you think your examination will conclude?

21 MR. BEN-VENISTE: In time for Ms. Lewis to  
22 catch her plane.

1 MR. GIUFFRA: I would like you to leave me  
2 the courtesy of some time to do some follow-up  
3 questioning. You have been examining Ms. Lewis for  
4 over two hours longer than I did, and I focused my  
5 examination on matters relating to Madison. You have  
6 spent time, I would guess over a half hour, just on  
7 the mechanics of her tape-recording. I wonder when  
8 we are going to finally reach some of the merits.

9 MR. BEN-VENISTE: Well, Mr. Giuffra, if you  
10 keep applying your comments to this record, it will  
11 take longer, not shorter, for me to finish.

12 BY MR. BEN-VENISTE:

13 Q Ms. Lewis, let me direct your attention to  
14 the point at which you were still employed by the  
15 RTC. Did you maintain a Rolodex?

16 A Yes.

17 Q Did you on that Rolodex maintain the  
18 numbers of any representatives of the media?

19 A Yes.

20 Q And do you remember who?

21 A Yes, sir.

22 Q Who?

1 A Susan Schmidt.  
2 Q Anyone else?  
3 A No, sir.  
4 Q That was the only person connected with the  
5 media who was on your Rolodex?  
6 A Yes, sir.  
7 Q Why was Susan Schmidt on your Rolodex?  
8 A When she appeared at my front door on  
9 October 5th, she offered me her home phone number and  
10 her work phone number. I told her I did not want  
11 them. She pressed them into my hand and said "please  
12 keep them." I took them to work the next day. I put  
13 them in my Rolodex. It is still on the handwritten  
14 note. It just sits there. I never actually applied  
15 it in my own handwriting to my Rolodex.  
16 Q You didn't have to, apparently. Was it a  
17 Rolodex card she gave you?  
18 A No. It was a handwritten note.  
19 Q How did you affix that to your Rolodex?  
20 A I didn't. I just tossed it in under S.  
21 Q Is your Rolodex the kind that rolls around?  
22 A No.

1 Q It is more of a filing box?  
2 A Correct.  
3 Q Did you review The Congressional Record  
4 testimony that you provided and the documents that  
5 you provided in connection with the House  
6 investigation?  
7 A Yes, sir.  
8 Q Did you provide to Representative Leach any  
9 documents which were not reflected in The  
10 Congressional Record?  
11 MR. GIUFFRA: Objection. I don't know what  
12 the -- whether she will know what is in The  
13 Congressional Record or not.  
14 MR. BEN-VENISTE: If she doesn't know,  
15 Mr. Giuffra, she will tell us that without your  
16 coaching.  
17 THE WITNESS: Would you mind restating your  
18 question.  
19 MR. BEN-VENISTE: Please read it back.  
20 (The reporter read the record as requested.)  
21 MR. GIUFFRA: I want to restate my  
22 objection. What Congressional Record?

1 MR. BEN-VENISTE: Why would you restate  
 2 your objection? What purpose would it serve other  
 3 than cluttering up the record and taking more time.  
 4 This is just what I'm pointing to. On the one hand,  
 5 you say you want time. On the other hand, you  
 6 clutter up the record unnecessarily. Stating an  
 7 objection performs no valid function here. Restating  
 8 an already made objection has even less.

9 MR. GIUFFRA: If you would frame proper  
 10 questions, the objections would not be necessary.

11 MR. BEN-VENISTE: What is improper about  
 12 the question, Mr. Giuffra, in your view?

13 MR. GIUFFRA: It is completely ambiguous.

14 MR. BEN-VENISTE: I see. Thank you.

15 BY MR. BEN-VENISTE:

16 Q Can you answer the question?

17 A With all due respect, Mr. Ben-Veniste, The  
 18 Congressional Record is large and ongoing, and I'm  
 19 not sure there is a way I can answer that.

20 Q So when you reviewed the record, it did not  
 21 occur to you that there were any documents that you  
 22 provided Mr. Leach that were not included --

1 MR. FORSHEY: I don't know what record --

2 MR. BEN-VENISTE: Please don't object until  
 3 I finish asking my question.

4 MR. FORSHEY: I am trying to follow your  
 5 lead.

6 MR. BEN-VENISTE: Well, don't follow it in  
 7 that respect.

8 MR. FORSHEY: I'm learning how to practice  
 9 law here in Washington.

10 MR. BEN-VENISTE: Do what I say, not what I  
 11 do.

12 MR. GIUFFRA: We can save that one for the  
 13 hearing.

14 MR. BEN-VENISTE: I'm sure it will go over  
 15 well.

16 MR. FORSHEY: Probably in Texas.

17 BY MR. BEN-VENISTE:

18 Q Did you hear my question?

19 A I lost the question in there somewhere.

20 MR. BEN-VENISTE: Read back the question.  
 21 (The reporter read the record as requested.)

22 THE WITNESS: Would you identify for me

1 which portion of The Congressional Record you are  
2 asking me about?

3 BY MR. BEN-VENISTE:

4 Q I can provide it to you. I believe it is  
5 in March of 1994, maybe March 24th. But I don't know  
6 that the date itself would be any particular help to  
7 you. It wouldn't to me if I were you.

8 But I would be pleased to show you the  
9 volume if you think that might help.

10 A Well, sir, your comment has refreshed my  
11 memory. I was thinking your question was with regard  
12 to the hearings in April of this year, not what  
13 occurred in March of 1994. So thank you for that  
14 clarification.

15 Q Okay. Now can you answer the question?

16 A Yes, I did provide Mr. Leach with documents  
17 that I do not believe appeared in The Congressional  
18 Record, to the best of my knowledge.

19 Q What documents were those?

20 A The criminal referrals.

21 Q Anything else, other than the tape? You  
22 played him the tape, but you didn't have a transcript

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1 at that point?

2 A No, sir, that's correct.

3 Q So, other than from the standpoint of  
4 documents, the criminal referrals, was there anything  
5 else?

6 A Yes, sir. I believe there were other  
7 documents that did not appear in the record.

8 Q What other ones?

9 A I don't know.

10 Q What led you to believe that there were?

11 A I had provided Mr. Leach during our meeting  
12 with a copy of my criminal administrative file, and  
13 the documents that I saw relating to The  
14 Congressional Record as it was produced did not  
15 contain every document that I had provided Mr. Leach  
16 in that criminal administrative file.

17 Q Roughly, can you tell from the standpoint  
18 of volume what the difference might have been?

19 A No, sir. I really can't.

20 Q So, you provided the entire criminal  
21 administrative file?

22 A That's correct.



1 Q Was that limited to Madison?

2 A Yes, sir.

3 Q So, were there any Madison-related  
4 documents that you had in your possession that you  
5 did not provide to Representative Leach?

6 A In my possession at the time I met with  
7 him? No, sir.

8 Q I didn't mean in your physical possession.  
9 I mean in connection with your official capacity at  
10 RTC.

11 A Yes, sir.

12 Q What didn't you provide?

13 A A veritable RTC inventory of Madison  
14 documents that were retained by the RTC.

15 Q How did you make the decision as to what  
16 you would provide?

17 A I provided him with the documentation that  
18 I believed to be necessary for me to substantiate the  
19 reasons that I had wanted to meet with Mr. Leach.

20 Q So you selected materials that you felt  
21 were the most compelling?

22 A No, sir. That's mischaracterized.

1 Q Did you eliminate the materials?

2 A No, sir.

3 MR. BEN-VENISTE: I wish we could have a  
4 video deposition to listen to Mr. Giuffra laughing,  
5 making a fool of himself.

6 MR. GIUFFRA: I wish we could have a video  
7 deposition to show you sneering at the witness and  
8 being impolite.

9 BY MR. BEN-VENISTE:

10 Q Do you think I have been impolite,  
11 Ms. Lewis?

12 A You are both putting me on the spot and I'm  
13 not going to answer that question.

14 Q If I have been discourteous, I hope you  
15 will tell me. I don't mean to be.

16 MR. FORSHEY: Do we have a question?

17 BY MR. BEN-VENISTE:

18 Q Were there any materials that you excluded  
19 from providing Mr. Leach which you felt were  
20 demonstrative of wrongdoing in connection with  
21 Madison?

22 A I provided Mr. Leach with a complete copy



1 of my administrative file, which would have contained  
2 all the documents relating to the investigation up to  
3 that point.

4 Q Were you able to tell when you submitted  
5 the 1993 referral what the loss was in connection  
6 with the Campobello referral?

7 A I believe it is documented again on the  
8 front of the referral, if I may use that as a  
9 reference.

10 Q Do you recall offhand? I would be pleased  
11 to show it to you.

12 A I recall that it was -- I believe it was  
13 around 300 to \$400,000.

14 Q Were you the principal investigator in  
15 connection with the Campobello matter?

16 A No, sir.

17 Q Who was that?

18 A Mike Caron.

19 Q Did you participate in the investigation?

20 A Yes, I did.

21 Q Did you understand whether the interest of  
22 the investors in Campobello was taken over by the

1 bank or sold back to the bank?

2 A I understood that there were, as I recall,  
3 two separate occasions on which investor interests  
4 were sold back to Madison Guaranty.

5 Q And what were those? What was your  
6 understanding?

7 A Mr. Wade sold his interest at one point,  
8 and then I believe two of the other investors sold  
9 out their interest at a later date.

10 Q And those two other investors, did they  
11 make a profit as the result of selling back their  
12 interest, or couldn't you tell?

13 A I would have been glad to refresh my  
14 recollection by looking at the document.

15 Q This is the criminal referral as it relates  
16 to Madison. The first page of our copy is somewhat  
17 obliterated. But working back from the first legible  
18 Bates stamp page, it would seem that this would be  
19 6870, et seq.

20 (Exhibit 6870 identified.)

21 (Witness examined the document.)

22 THE WITNESS: I think I reviewed this. Can

1 I hear the question again, please?

2 (The reporter read the record as requested.)

3 THE WITNESS: Without wasting time and  
4 rereading the entire referral, it appears to me that  
5 two of the partners stood to make money, and the  
6 other two, as I recall, without carefully rereading  
7 the referral, did not make any money.

8 BY MR. BEN-VENISTE:

9 Q Were you able to see what the purchase  
10 price was and what the sale price was as a result of  
11 your review for the interests that were sold back?

12 A I located some dollar amounts, and I don't  
13 know that they related specifically to those two  
14 questions, purchase and sale.

15 Q Well, at the point that the individuals  
16 sold back their interest, who did they sell it to?

17 A Mr. Flake and Mr. Wallace, as sellers, sell  
18 the property back to the Madison Financial  
19 Corporation.

20 Q And Mr. Nelson?

21 (Witness examined the document.)

22 A Mr. Nelson and the other partner,

1 Mr. Jones, sold their interest back to Madison  
2 Financial Corporation, the referral indicates for an  
3 additional \$725,000.

4 Q So they made \$725,000 selling their  
5 interest back to the bank?

6 A I believe that's what I said.

7 Q Did it strike you as unusual at a time when  
8 the bank was in trouble that it was able to provide a  
9 handsome profit in repurchasing those interests?

10 A Mr. Ben-Veniste, you have characterized it  
11 as a handsome profit. The institution had to get  
12 approval from the Federal Home Loan Bank to make a  
13 larger investment in their subsidiary to buy back  
14 Mr. Jones's and Mr. Nelson's interests, as I  
15 understand it.

16 Q But did it strike you as unusual that while  
17 the institution itself was in serious trouble, it was  
18 able to purchase the interests in this investment  
19 that I take it you noticed wasn't doing very well at  
20 a substantial profit?

21 A It struck me as odd. And, yes, I think  
22 your word was "troublesome," that the institution

1 would have to come up with that kind of money. But  
2 you have characterized it as a significant gain, and  
3 I don't think that they actually made a gain on their  
4 investment.

5 Q You don't know whether they made a gain or  
6 a loss?

7 A No, sir. I haven't gone through this  
8 carefully enough to ascertain that.

9 Q And it wouldn't refresh your recollection  
10 at this point as to whether you knew it then when you  
11 made the referral?

12 A I don't recall. And that was Mr. Caron  
13 that made that referral.

14 Q What is the difference between a  
15 corporation and a partnership?

16 MR. FORSHEY: I will object to the extent  
17 you are calling for a legal conclusion. But  
18 certainly Ms. Lewis can give you her understanding,  
19 if she has one.

20 MR. BEN-VENISTE: That's all I'm asking  
21 for. I'm not going to put it in Black's.

22 THE WITNESS: My understanding is a

1 corporation is an incorporated entity made up of  
2 however many individuals have joined that particular  
3 corporation. A partnership would be comprised of  
4 individuals who have so stated they are going to go  
5 into a partnership together but not necessarily  
6 incorporated.

7 BY MR. BEN-VENISTE:

8 Q Would there be any differences in terms of  
9 liabilities, as far as your understanding goes, in  
10 terms of corporate entity versus the partnership  
11 entity?

12 A Well, as counsel has pointed out, I'm not  
13 offering legal definitions here. But my  
14 understanding is that would be identified in how the  
15 documents for the entity were drawn up.

16 Q You wouldn't recognize any general  
17 difference in the way that liabilities are treated if  
18 the entity is a partnership as compared with a  
19 corporation?

20 A You are asking me to draw some legal  
21 conclusions. I don't think I can --

22 Q I'm just asking about your understanding.

1 A My understanding, Mr. Ben-Veniste, would be  
2 a corporation can be, from the standpoint of  
3 liability, sued as a corporation or jointly and  
4 severally. A partnership can be sued as a  
5 partnership or the partners individually and jointly  
6 and severally.

7 Q When you say a corporation can be sued  
8 "jointly and severally," what do you mean by that?  
9 Who would be the joint and several party?

10 A I would say the management of the  
11 corporation, the directors of the corporation. You  
12 are drawing me into areas of legalities that I am not  
13 comfortable discussing.

14 Q Okay. I don't mean it in any way  
15 disrespectfully to you, but I would like just to find  
16 out the basis of your understanding so that I could  
17 better understand some assumptions that you made or  
18 some conclusions that you drew in or about 1992.

19 In that regard, if I ask you to look at the  
20 1992 referral, I ask you to look at page 7 of that  
21 referral which is Bates stamped 6699. I ask you how  
22 Whitewater is described there in terms of the type of

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1 entity.

2 (Witness examined the document.)

3 A Am I to understand your question that on  
4 this particular page, there is a definition that you  
5 are asking me to look for of Whitewater?

6 Q No. I'm just asking you to look for  
7 Whitewater, where the number of entities are listed,  
8 and to read out how it is described.

9 A "Whitewater Development Corporation,  
10 Incorporated."

11 Q Did you understand that Whitewater was a  
12 corporation when you made this criminal referral?

13 A Yes.

14 Q Did you know who the officers were?

15 A To the best of my knowledge, no, strike  
16 that. I do not recall who the officers were. I knew  
17 who the principals were, but I did not know who held  
18 what office within the corporation.

19 Q Was there some document that said  
20 "principals"?

21 A No, sir. That was my term.

22 Q With respect to the checks that you



1 reviewed from the Whitewater Development Corporation,  
2 Inc., did you notice who the signatories were on  
3 those checks?

4 A Yes, sir.

5 Q The ones which were the subject of your  
6 preliminary conclusion reflected in this referral  
7 that check kiting had occurred?

8 A Yes, sir.

9 Q And who were the signatories?

10 A James McDougal and Susan McDougal signing  
11 as James McDougal and as herself.

12 Q Did you see any checks from the Whitewater  
13 Development Corporation, Inc. that were signed by  
14 Bill Clinton or Hillary Rodham Clinton?

15 A No, sir.

16 Q Now, you felt it was necessary to include  
17 the Clintons as named witnesses in connection with  
18 the criminal referral that you submitted; correct?

19 A Correct.

20 Q And yet at the same time you knew that this  
21 was very confidential and potentially harmful  
22 material if it were to be disseminated; correct?

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1 A That's correct.

2 Q You knew that it might well have an effect  
3 on the election if it were determined that  
4 Mr. Clinton or Mrs. Clinton were involved in some  
5 criminal investigation, did you not?

6 MR. GIUFFRA: Objection. That calls for  
7 speculation on her part.

8 BY MR. BEN-VENISTE:

9 Q You may answer.

10 A In doing my job, I identified the witnesses  
11 and the targets and suspects that I thought were  
12 necessary, submitted it in the appropriate time  
13 frame, and the chips had to fall where they would  
14 fall.

15 Q I understand that. Did you understand that  
16 by including the Clintons as named individuals,  
17 albeit as witnesses, in this referral, that if this  
18 material were publicized, that it could have a  
19 negative effect on Mr. Clinton in his presidential  
20 race?

21 A I will acknowledge that a possibility  
22 existed, yes.



1 Q You had that in mind, didn't you?

2 A I'm not sure I'm understanding what you are  
3 asking, Mr. Ben-Veniste.

4 Q You knew that if it had come out publicly  
5 that Mr. Clinton or Mrs. Clinton were referred to in  
6 a criminal investigative report, that it might have a  
7 negative effect on the presidential race in terms of  
8 Mr. Clinton's chances?

9 A It was possible, yes.

10 Q Did you understand that Ms. Casey was  
11 telling you in October 1993 with respect to C0004,  
12 the 1992 criminal referral, that her office would  
13 consider pursuing the underlying allegations if  
14 additional information were brought to their  
15 attention?

16 A No, sir, I did not understand that.

17 MR. BEN-VENISTE: Let me refer to FBI 1006,  
18 which is also referenced as KBK 48.

19 (KBK Exhibit 48 identified.)

20 BY MR. BEN-VENISTE:

21 Q It is a letter from Paula J. Casey, United  
22 States Attorney, to Ms. L. Jean Lewis dated October

1 27, 1993. I refer to the last paragraph "Although I  
2 am declining to take further substantive action on  
3 this referral, my decision does not foreclose future  
4 prosecutions about the matters covered by the  
5 referral or related matters in the event that my  
6 office and the FBI are given access to records or  
7 information indicating that prosecutable cases can be  
8 made."

9 Does that refresh your recollection,  
10 Ms. Lewis?

11 A Yes. May I see the document, please?

12 Q Yes, certainly.

13 A Thank you.

14 (Witness examined the document.)

15 Q Have you had a chance to read it?

16 A Yes, sir. Thank you.

17 Q Does it refresh your recollection?

18 A Yes, it does.

19 Q Do you recall telling --

20 MR. FORSHEY: Just a second, Couns-

21 (Witness conferred with counsel.)

22 (Recess.)

1 MR. GIUFFRA: I have two formal requests.

2 MR. BEN-VENISTE: It is taking longer every  
3 time you do this.

4 MR. GIUFFRA: First, I would like you to  
5 leave me some time to do some follow-up examination.  
6 You have already exceeded the amount of time I  
7 examined.

8 MR. BEN-VENISTE: So what, Mr. Giuffra? Is  
9 there some rule that says that because a witness that  
10 we have requested is questioned first by you that I  
11 can't finish my questioning? I don't understand  
12 that.

13 MR. GIUFFRA: Can I please be allowed to  
14 make my statement?

15 MR. BEN-VENISTE: You are just taking more  
16 time.

17 MR. GIUFFRA: Since your deposition of the  
18 next witness commences at 4:30, if you could make  
19 arrangements to have another lawyer from your  
20 committee be here so I will be able to conduct my  
21 examination.

22 MR. BEN-VENISTE: You want me to make those

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1 arrangements now or during the next break?

2 MR. GIUFFRA: The two people sitting here  
3 can do it while you are examining Ms. Lewis.

4 MR. BEN-VENISTE: Does that conclude your  
5 remarks?

6 MR. GIUFFRA: Yes.

7 MR. BEN-VENISTE: Thank you.

8 BY MR. BEN-VENISTE:

9 Q Are you okay?

10 A I apologize. These things have to run  
11 their course. It takes a few minutes for the cough  
12 to go away.

13 Q Tell me when you are ready.

14 A I am prepared to continue.

15 Q Is it correct that it was your view, at  
16 least as of 1993, that you assumed that Mr. and  
17 Mrs. Clinton had knowledge of the fact that  
18 Mr. McDougal must have been getting money to pay the  
19 mortgage obligations of Whitewater through some  
20 improper means?

21 A That does not accurately characterize or  
22 reflect what I thought.

1 Q Did you make some assumption with respect  
2 to what the Clintons must have thought about in terms  
3 of the mortgage obligations of Whitewater Development  
4 Corporation?

5 A Only speculation to that effect.

6 Q So it wasn't even an assumption; it was a  
7 speculation?

8 A I will call it a presumption.

9 Q A presumption, okay.

10 Are presumption and speculation more or  
11 less the same in your vocabulary?

12 A No. I will qualify that as a presumption.

13 Q So that is stronger than a speculation?

14 A Yes, sir.

15 Q What was your presumption?

16 A That the outstanding mortgages on  
17 Whitewater were being paid somehow through  
18 Mr. McDougal's efforts and that I thought it would be  
19 incumbent upon the other members of Whitewater as the  
20 corporation to wonder where the money was coming from  
21 to make those payments.

22 Q So, you presumed that the Clintons would

1 have to wonder where the money was coming from, and  
2 once they set themselves to wondering, they would  
3 only conclude that Mr. McDougal was getting this  
4 money in some improper way?

5 A I presume that such a business interest  
6 would be something that they would want to track and  
7 that the final answer as to whether or not they knew  
8 about it would be appropriately concluded by the  
9 authorities such as the Independent Counsel, if I got  
10 your question.

11 Q My question has to do with what assumptions  
12 or presumptions, as you put it, you were making, not  
13 what some other investigative group was making back  
14 in 1993.

15 Again, you presumed that the Clintons would  
16 necessarily know that there were some problems  
17 associated with making the mortgage payments of  
18 Whitewater and that they should also have known, once  
19 they knew the former, that Mr. McDougal would be  
20 involved in some impropriety in connection with  
21 providing the funds to make the mortgage payments; is  
22 that correct?

1 A No.

2 Q Let's try it again in your words. What was  
3 your presumption?

4 A I presumed that the Clintons should have  
5 known and/or questioned where McDougal was getting  
6 the money to make the payments on Whitewater and that  
7 the possibility existed they may have been aware of  
8 the check kiting activities, the alleged check kiting  
9 activities that were occurring at Madison that was  
10 providing Mr. McDougal with those funds.

11 Q Your presumption was that the check kiting  
12 was the only place available for Mr. McDougal to  
13 provide those funds?

14 A No, sir.

15 Q What was your presumption?

16 A Mr. McDougal, from what I have seen, had  
17 numerous resources that could have just been one  
18 specific area in which he was generating funds to  
19 make mortgage payments not only on Whitewater but on  
20 several of his other investments.

21 Q Didn't your presumption depend on what  
22 Mr. McDougal was telling the Clintons?

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1 A I have no way of knowing what Mr. McDougal  
2 was telling the Clintons.

3 Q I think that is very important, and I thank  
4 you for pointing that out. But I ask you again,  
5 didn't your presumption depend on what Mr. McDougal  
6 was telling the Clintons?

7 A My presumption depended on the fact that  
8 people involved in a business venture that small  
9 generally tend to communicate with each other.

10 Q And therefore, what Mr. McDougal was  
11 telling the Clintons would be important as to whether  
12 the presumption that you were making was an accurate  
13 one or an inaccurate one; isn't that so?

14 A That could be so.

15 Q Okay. But you had no way of knowing?

16 A That's correct.

17 Q Did you also make the presumption in  
18 connection with the 1992 referral that the Clintons  
19 should have known what was being run through the  
20 Whitewater account?

21 A No, sir, I did not make that presumption.  
22 I believe I suggested that it should be further



1 investigated to see if they had knowledge of what was  
2 going through the Whitewater account.

3 Q So you did not presume that they would have  
4 knowledge?

5 A I did not presume that they would or would  
6 not.

7 Q You just didn't know?

8 A I did not know and recommended further  
9 investigation.

10 Q And indeed, there was no reason, was there,  
11 to presume that the Clintons knew everything  
12 Mr. McDougal was doing, was there?

13 A No more so than I would presume that  
14 Mr. McDougal knew everything the Clintons were  
15 doing.

16 Q Mr. McDougal was using any number of  
17 different vehicles, corporations, businesses,  
18 affiliates in connection with the financial  
19 transactions which were the subject of your  
20 investigation; isn't that so?

21 A Yes.

22 Q And you knew that Mr. McDougal had been

1 prosecuted and that he had been acquitted in  
2 connection with an earlier case involving financial  
3 transactions with which he was associated as a  
4 principal?

5 A Is that a statement or a question?

6 Q That's a question.

7 A Yes, sir.

8 Q And you knew, if I understand your  
9 testimony, that the regulatory agencies appropriate  
10 to making this determination had concluded that they  
11 would not pursue a civil remedy against Mr. McDougal  
12 in connection with Madison because he didn't appear  
13 to have the funds that would make such pursuit  
14 worthwhile or cost-effective; is that correct?

15 A Yes, sir.

16 Q Now, in connection with pursuing  
17 Mr. McDougal for the violations that you outlined in  
18 your allegations in C0004, did you think that there  
19 was a time sensitivity from a statute-of-limitations  
20 standpoint in pursuing Mr. McDougal?

21 A No, sir, not at that point in time when the  
22 referral was written and submitted, I did not.



1 Q Did you feel that Mr. McDougal might flee  
2 the country if there was not expeditious pursuit of a  
3 second criminal investigation against him?

4 A I never even considered the matter.

5 Q Did you feel that Mr. McDougal might hide  
6 valuable assets or evidence in the event the federal  
7 authorities did not act quickly to prosecute him?

8 A No, sir, another issue I had not  
9 considered.

10 Q Did you feel that there was any reason for  
11 haste in pursuing an indictment of Mr. McDougal?

12 A No, sir.

13 Q Did you know Mr. McDougal's personal  
14 circumstances from any source as of November of 1992?

15 A I was aware of some of Mr. McDougal's  
16 personal circumstances, yes, sir.

17 Q Could you provide us with a summary of  
18 those circumstances with which you were acquainted in  
19 November of 1992.

20 A I had learned that Mr. McDougal had  
21 suffered some type of a mental condition, a nervous  
22 breakdown, something to that effect and that I also

1 believe I recall he had subsequently filed for  
2 personal bankruptcy.

3 Q Did you know what his living conditions  
4 were or had you heard from any source where he was  
5 living?

6 A Yes.

7 Q Was he living a lavish lifestyle?

8 A No.

9 Q What did you understand about his  
10 lifestyle?

11 A I understood through a newspaper article I  
12 had read that he was living in a trailer home  
13 somewhere in Arkansas.

14 Q That did not suggest to you a lavish  
15 lifestyle, did it?

16 A No, it did not.

17 Q So, there would not have been any reason  
18 for you to contact the FBI or the U.S. Attorney's  
19 Office in September or October or November to ask  
20 them what they were doing on the investigation, would  
21 there have been?

22 A No specific reason that I can think of.

1 Mr. Ben-Veniste, I'm going to correct my previous  
2 statement.

3 Q Which one?

4 A What I just told you, the not that I can  
5 think of. I recall making a call at some point,  
6 during the time frame you mentioned, to Mr. Irons  
7 just to verify as to whether or not the actual  
8 exhibits and referrals had been received.

9 Q What led you to this change or refreshing  
10 of recollection?

11 A It just dawned on me.

12 Q Just now?

13 A Yes.

14 Q What do you recall?

15 A I just recall making the call to Mr. Irons  
16 and verifying that the referrals and the exhibits  
17 had, in fact, been received.

18 Q Had you sent the exhibits to the FBI?

19 A No, sir. I had sent them to the U.S.

20 Attorney.

21 Q So, you called Mr. Irons to see if the U.S.  
22 Attorney had received the exhibits?

1 A I remember asking him that, yes.

2 Q Okay. And that's it?

3 A That's what I recall from the conversation,  
4 yes.

5 Q You don't recall asking what was going on,  
6 whether subpoenas would issue, whether the matters  
7 would be pursued, anything like that?

8 A No, sir. I would have had no reason to do  
9 that. They just received them.

10 Q Now, the telephone records that you have  
11 provided to us reflect some telephone calls in August  
12 of 1992 to Fairfax, Virginia and Alexandria,  
13 Virginia. Do you recall who you would have been  
14 calling?

15 A Yes, sir.

16 Q Who? Can you tell us?

17 A Yes, sir. A friend in Fairfax, Virginia  
18 and family in Alexandria.

19 Q And these are redacted out, the numbers are  
20 redacted out. So when you reviewed the September 21,  
21 1992 telephone company bill, you were able to  
22 establish that these were all personal friends and

1 relatives in the 703 area code; is that correct?

2 MR. GIUFFRA: Mr. Ben-Veniste, the request  
3 only asks for 202, 212, 501.

4 MR. BEN-VENISTE: Thank you, Mr. Giuffra.

5 THE WITNESS: I don't recall making any  
6 particular effort to determine exactly who I was  
7 calling in those area codes. I was focused, as  
8 Mr. Giuffra has noted, just on the three area codes  
9 you asked for.

10 BY MR. BEN-VENISTE:

11 Q The Fairfax and Alexandria area codes are  
12 ones which, along with Maryland suburban area codes,  
13 301, encompass people who work in the Washington,  
14 D.C. area. So that's why I was interested in that.

15 But you can't tell on the basis of your own  
16 recollection whether any of the calls were to persons  
17 other than personal friends or family?

18 A Not off the top of my head, no.

19 Q You would need the original records to do  
20 that, I take it?

21 A Yes.

22 Q And in September of 1992, there is a call

1 reflected to Washington, D.C., September 4th. Do you  
2 happen to recall who that call was made to?

3 A That went to the RTC in the Washington  
4 office, and I believe it was either to Ms. Anna  
5 Kautzman or Mr. Ken Baker.

6 Q And was that made from your home?

7 A Yes, sir.

8 Q Any particular reason for that?

9 A Well, sir, when I was in the middle of  
10 working on something, I didn't generally draw a  
11 distinction as to whether or not I was at the office  
12 or home. If I was at home, there may be calls I  
13 needed to make.

14 Q Would you reverse the charges if you were  
15 making an official call? Was it an official call you  
16 were making or was that just a personal call?

17 A May I look at that?

18 Q Sure.

19 (Witness examined the document.)

20 A Based on the fact that the call was made at  
21 4:02 p.m., I would say it was probably business  
22 related.

1 Q And again, there are calls in September or  
2 actually in August reflected on the September bill,  
3 additional calls made to the 703 area code. Can you  
4 tell from looking at them whether these were personal  
5 friends or relatives or other calls?

6 (Witness examined the document.)

7 A I can clarify one point very easily on  
8 this.

9 Q Okay.

10 A August of 1992 was my 20th high school  
11 reunion in Fairfax, Virginia, and I was making travel  
12 arrangements and calling to make plans during that  
13 time frame.

14 Q That is helpful.

15 So that would lead you to believe that  
16 probably these were social calls?

17 A Yes, that would lead me to believe that.

18 Q Did you know of any news reporters or  
19 Congressional aides with whom you were communicating  
20 who had telephone numbers in those area codes?

21 A No, sir.

22 Q And when do you recall the high school

1 reunion was?

2 A Mid-to-late August of 1992.

3 Q Would you tend to call the family members  
4 and friends during business hours?

5 A From my home? Is that your question?

6 Q Yes.

7 A If I was --

8 MR. GIUFFRA: I really object to this whole  
9 line of questioning. I mean, you are trying to cast  
10 aspersions on this witness in a very unfair way.

11 MR. BEN-VENISTE: I'm not trying to cast  
12 aspersions, Mr. Giuffra. You are exactly wrong about  
13 that. I am trying to find out information.

14 MR. GIUFFRA: You are not entitled to  
15 engage in a fishing expedition.

16 MR. BEN-VENISTE: Mr. Giuffra, somebody  
17 other than you will have to tell me what I am  
18 entitled to do and not entitled to do.

19 BY MR. BEN-VENISTE:

20 Q Ms. Lewis, on the 14th of October there is  
21 another call to Washington, D.C. Could you tell me  
22 what that was, if you know.



1 (Witness examined the document.)

2 A Yes, sir. This was another call to the RTC  
3 office in Washington, and again I believe it was  
4 either Mr. Baker or Ms. Kautzman.

5 Q Do you recall what you were calling them  
6 about at that time?

7 A No, sir, I don't recall.

8 Q Would that have been before you left for  
9 work during the day? It says 9:05 a.m.

10 A No, sir.

11 Q I don't have a calendar. I presume it is a  
12 work day since you were calling them at their  
13 business office.

14 A 9:05 a.m. is during my work time.

15 Q So you might have been working at home that  
16 day?

17 A It is possible I was working at home. It  
18 is more likely I was home ill.

19 Q In December of 1992, there is a call to  
20 Washington, D.C. at 5:09 p.m. I would like you to  
21 look at that and see if that refreshes your  
22 recollection about a call you might have made on that

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1 day.

2 (Witness examined the document.)

3 A Yes, sir, it does.

4 Q Who was it to?

5 A I believe I called the National Center for  
6 Performing Arts to find out what would be happening  
7 and what was on their agenda for a time that I was  
8 going to be in town in Washington, January '93.

9 Q Did you travel to Washington in January?

10 A Yes.

11 Q Was that in connection with official  
12 business?

13 A Yes, it was.

14 Q In August of '93, there were some calls,  
15 specifically on August 5th, to the Washington, D.C.  
16 area. Could you see whether that refreshes your  
17 recollection about what those might have been about.

18 (Witness examined the document.)

19 A No, sir. All three are to the same prefix,  
20 but I do not readily recognize the numbers.

21 Q That would not be RTC numbers, in any  
22 event, to the best of your present recollection?



1 A RTC had more than one office and have gone  
2 through several phone incarnations during my tenure  
3 there. So I'm not sure.

4 Q Does this August call refresh your  
5 recollection?

6 A Yes, sir. I believe that was another call  
7 to the RTC.

8 Q And this was at 1:26 p.m., lunchtime. Any  
9 particular reason that you recall why you wouldn't be  
10 calling them from your official phone number in your  
11 office?

12 A May I look at that again, please?

13 Q Sure.

14 (Witness examined the document.)

15 A No, sir, I don't know.

16 MR. BEN-VENISTE: Let's take a five-minute  
17 break, and we will be able to finish up shortly.

18 (Recess.)

19 BY MR. BEN-VENISTE:

20 Q Was there some problem in terms of your  
21 relationship with other criminal investigators in the  
22 RTC in connection with the Paragould matter?

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1 A No, sir.

2 Q Was there any problem in connection with  
3 the information that was provided with respect to the  
4 criminal prosecution in Paragould?

5 A Not that I was aware of.

6 Q Did you work in that case with Neysa Day?

7 A Yes, Neysa Day. She is a PLS attorney.

8 Q Was there some question about a mix-up in  
9 connection with information that was submitted to the  
10 court in connection with the issue of restitution?

11 A I certainly would not characterize that as  
12 a mix-up.

13 Q How would you characterize it?

14 A I drafted an initial victim impact  
15 statement, which is the formal name for a restitution  
16 request that is submitted to the Court. I forwarded  
17 that document to PLS for their review and their  
18 comments. I received it back. Ms. Carmichael had  
19 made significant changes to it. I objected to the  
20 changes that she had made, based in part on knowledge  
21 that I had from the U.S. Attorney's Office.

22 She sent it out as she had written it, and

1 as a direct result of it being sent to the judge,  
2 there were some problems within the U.S. Attorney's  
3 Office and with the judge that ultimately came back  
4 to create an issue for the RTC.

5 Q What was the issue?

6 A The judge ultimately did not grant the  
7 restitution orders. But the issue focused on  
8 Ms. Carmichael adding an additional paragraph  
9 requesting that the judge in the case compel one of  
10 the defendants -- excuse me, compel the convicted  
11 felon at that point to cooperate in a civil lawsuit.

12 Q Is the convicted felon somebody different  
13 than the defendant?

14 A Semantics. I'm talking about a man named  
15 Dan Kell. He had pled guilty.

16 Q That's one L?

17 A Two, K-e-l-l. Ms. Carmichael also included  
18 in the victim impact statement allegations that he  
19 should be further punished for a "loan parking," and  
20 I use that term in quotations, issue which should  
21 have been left out, because the U.S. Attorney's  
22 Office was aware of that issue. I was aware of it

1 and made her aware of it. She chose not to take it  
2 out.

3 Q Because more information was in there, the  
4 judge didn't permit restitution or didn't order  
5 restitution? I don't understand what you are  
6 saying.

7 A I don't know ultimately what the judge's  
8 logic was in refusing to grant the restitution  
9 request. But I do know that the U.S. Attorney's  
10 Office took exception to the victim impact statement  
11 requesting more restitution on more charges than the  
12 defendant had actually pled guilty to.

13 Q And that was the reason why in your view,  
14 to your understanding, the judge ordered no  
15 restitution?

16 A My understanding from an Assistant U.S.  
17 Attorney with whom I briefly discussed the matter was  
18 that the judge was irritated with the whole thing and  
19 she did not grant restitution. That was the  
20 characterization.

21 Q That was your understanding, the judge  
22 didn't grant restitution because she was irritated?

1 A Mr. Kell, to the best of my knowledge, does  
2 not have the financial resources to pay the  
3 restitution that was requested either.

4 Q So, it was a combination of the judge being  
5 irritated and Mr. Kell not having resources?

6 A I'm not going to presume to speak for the  
7 judge.

8 Q I just want to get your understanding of  
9 what the problem was. The problem was between you  
10 and Ms. Carmichael?

11 A No. The problem was between Ms. Carmichael  
12 and the U.S. Attorney's Office.

13 Q Did you have some role in connection with  
14 the plea negotiations?

15 A Yes.

16 Q And what was your role?

17 A I was working with the probation officer  
18 who had been assigned to the case to identify the  
19 actual counts to which Mr. Kell had pled guilty, and  
20 under federal sentencing guidelines, realistically  
21 what we could ask for restitution on so that  
22 probation would have our report and subsequently send

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1 their report to the judge along with ours.

2 Q In that case, do you recall whether the  
3 initial plea agreement included a promise to make  
4 restitution?

5 A Sitting here, Mr. Ben-Veniste, no, I do not  
6 recall whether or not it included that.

7 Q Wasn't that the problem, that the U.S.  
8 Attorney's Office didn't get the correct input early  
9 enough from the RTC?

10 A No, sir. I don't believe so.

11 Q But it is clear that you -- go ahead. The  
12 record will show a conference.

13 (Witness conferred with counsel.)

14 BY MR. BEN-VENISTE:

15 Q Did you have something to add?

16 MR. FORSHEY: Counsel has the absolute  
17 right to confer with his client.

18 MR. BEN-VENISTE: I wonder, Mr. Forshey,  
19 why you think I don't agree with that.

20 MR. FORSHEY: Because you keep putting on  
21 the record that we conferred.

22 MR. BEN-VENISTE: Well, I started a

1 question, and that question was interrupted by the  
2 fact that she --

3 MR. FORSHEY: My client was conferring with  
4 me prior to your question. You hadn't looked up yet,  
5 Counsel.

6 MR. BEN-VENISTE: Well, whatever. I don't  
7 mean to imply that when no question is pending, there  
8 isn't a right to confer.

9 BY MR. BEN-VENISTE:

10 Q In the Paragould case, did you inform PLS  
11 that you had submitted the criminal referral?

12 A Yes, sir.

13 Q When did you inform them relative to the  
14 time that you submitted the criminal referral?

15 A Those referrals were written while we were  
16 still in the Tulsa office of the RTC, and the  
17 procedures there were a little different than they  
18 were in Kansas City. So when the referrals went in,  
19 they were put in our files and ultimately  
20 Ms. Carmichael sent a secretary down to copy all the  
21 referrals in those files before we moved to Kansas  
22 City.

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1 Q So what does that mean in terms of  
2 answering my question?

3 A Sometime after the referrals were written,  
4 Ms. Carmichael obtained copies of them.

5 Q Do you know when?

6 A Not specifically, no.

7 MR. GIUFFRA: Mr. Ben-Veniste, are you  
8 almost concluded with your examination?

9 MR. BEN-VENISTE: Yes.

10 BY MR. BEN-VENISTE:

11 Q With respect to First Fayetteville Savings  
12 & Loan, did you make a criminal referral in that  
13 case?

14 A No, sir, I did not.

15 Q Did someone in your office?

16 A Yes, sir.

17 Q Who was that?

18 A Mr. Don Norman.

19 Q Was that in or around March of '93?

20 A No, sir. I believe -- no.

21 Q Do you remember when that was?

22 A Mr. Norman submitted that, I believe, right



1 before the Tulsa office closed down in 1992.

2 Q Was there a claim that you heard about that  
3 the RTC/PLS people felt that not having had the  
4 opportunity to review a criminal referral in the  
5 Fayetteville Savings & Loan case, First Fayetteville  
6 Savings & Loan case resulted in a missed opportunity  
7 to obtain restitution?

8 A A matter similar to that was brought to my  
9 attention in March, yes.

10 Q What do you recall? I want to give you the  
11 opportunity to comment on it.

12 A Thank you. PLS had gone to trial with  
13 regard to First Federal Savings of Fayetteville.  
14 That trial was lost. At the conclusion of the trial,  
15 outside counsel retained by PLS spoke with the media  
16 and indicated it was not his belief that there had  
17 been intentional fraud. The media in Arkansas picked  
18 that up and reported it in the paper. As a result,  
19 the U.S. Attorney in the Western District of Arkansas  
20 declined a pending criminal referral, as I previously  
21 testified, which was submitted and written by Mr. Don  
22 Norman.

1 I was notified by the FBI agent who had  
2 been assigned to work that case that it had been  
3 declined, and upon notification advised Mr. Ausen and  
4 Mr. Iorio of what happened, documented it and noted  
5 that I thought it was inappropriate for outside  
6 counsel to be speaking with the media regarding  
7 matters that had as yet been unresolved and had cost  
8 us a criminal referral.

9 Q Did you recall if there was some criticism  
10 with respect to the way the criminal investigators  
11 had dealt with PLS in that matter within the agency?

12 A Yes, I do recall that.

13 Q What do you recall?

14 A I recall Mr. Iorio advising me that  
15 Ms. Yanda felt that there was a lack of communication  
16 that had resulted in that circumstance.

17 Q That's all that was said, nothing more than  
18 lack of communication resulting in that circumstance?

19 A That's the conversation I had with  
20 Ms. Yanda as well.

21 Q No specifics in terms of the failure to  
22 communicate that she was discussing.



1 A Yes. She stopped by my office. We visited  
2 briefly. She stated that had they been aware of the  
3 criminal referral, they may have responded in a  
4 different manner. I pointed out to her that her  
5 attorneys had equal access to all criminal referrals  
6 as they were on the RTC's computerized thrift  
7 information management system.

8 Q That was all she provided you by way of  
9 information?

10 A Yes, sir.

11 Q You didn't ask her any questions?

12 A No, sir. I simply suggested that her  
13 attorneys should have checked the system since they  
14 had access to it.

15 Q And how would they have done that?

16 A Simply by gaining access to the particular  
17 database and what we refer to as TIMS, that would  
18 have told them that there was an existence of a  
19 referral under that thrift number.

20 Q She was pointing out that maybe you should  
21 have sent them a copy and given them some notice?

22 A She didn't point out anything to me or at

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1 me in particular other than saying that the  
2 communication level should have been better.

3 Q And what she was pointing to was that  
4 rather than leaving it to the PLS lawyers to go  
5 through the database and search for whether there had  
6 been a referral sent, that it might have been better  
7 if you all had simply let them know?

8 A When Ms. Yanda left my office, it was my  
9 impression that we both felt that there was mutual  
10 blame there to share.

11 Q So, you felt that there was some blame on  
12 your part as well?

13 A I felt that we could have responded by  
14 providing them a copy of the referral, but the  
15 circumstances surrounding the referral which occurred  
16 right in the middle of the move from Tulsa could have  
17 precluded it.

18 Q "Could have precluded it" did you say?

19 A Yes.

20 Q Now, I think Mr. Giuffra asked you  
21 yesterday about whether you were precluded from  
22 communicating with Independent Counsel, the Office of

1 Independent Counsel, I believe Mr. Fiske at the time,  
2 in connection with its investigation. Do you recall  
3 that subject matter coming up?

4 A Yes.

5 Q And could you tell us what it is that you  
6 were precluded from doing, and place that in time.

7 A March of 1994, I was precluded from  
8 returning calls to the Independent Counsel's office  
9 placed directly to me. I was subsequently advised by  
10 PLS in Washington that I was not to meet with the  
11 Independent Counsel unless PLS attorneys were  
12 present. A directive was then issued that all  
13 communication that went out regarding Madison would  
14 have to be approved by either Mr. Murray or PLS  
15 before it went.

16 Q And how long was that injunction in effect?

17 A The choice of terms is interesting. How  
18 long was I not allowed to communicate with the  
19 Independent Counsel?

20 Q Yes, if you remember.

21 A I do remember. The Independent Counsel's  
22 office stepped in and requested specifically a

1 meeting with me individually which occurred on March  
2 15, 1994.

3 Q So, that would, in answer to my question,  
4 what would the arithmetic be?

5 A Roughly two weeks.

6 Q Two weeks?

7 A Yes.

8 Q That was while Mr. Fiske was still  
9 Independent Counsel?

10 A That's correct.

11 Q Had you spoken to him prior to that?

12 A No, sir.

13 Q Had you attempted to contact them prior to  
14 that?

15 A Individually, no, sir.

16 Q What do you mean "individually"?

17 A Mr. Ausen and Mr. Iorio had attempted to  
18 contact Mr. Fiske through Mr. Irons at one point.

19 Q When was that?

20 A Sometime in January or February of '94. I  
21 don't recall anything other than that general time  
22 frame.

1 Q January, February of '94?

2 A I believe so.

3 Q And what do you recall having been told  
4 about that?

5 A There was a request made from Mr. Dudine in  
6 Washington that if at all possible, an inventory be  
7 conducted of the Madison documents that were  
8 contained in the Little Rock warehouse. Mr. Ausen  
9 and Iorio were endeavoring to find a way to conduct  
10 that particular inventory by going through Mr. Irons  
11 to get permission from Mr. Fiske to do so.

12 Q They wanted Mr. Fiske to conduct the  
13 inventory?

14 A No, sir. They wanted Mr. Fiske's  
15 permission for the RTC to conduct an inventory.

16 Q Why did they feel they needed Mr. Fiske's  
17 permission at that point?

18 A My understanding is that Mr. Fiske had at  
19 that juncture appropriated all records, and the  
20 possibility existed that that was all 6(e) material  
21 that he was not willing to part with.

22 Q So, what was the purpose of contacting

1 Mr. Irons again?

2 A They did not know how to contact Mr. Fiske  
3 directly, so I went through the FBI to see if he  
4 could make the request to Mr. Fiske for them.

5 Q So that they would be able to do what?  
6 Conduct their own inventory of the documents?

7 A That's correct.

8 Q And what happened?

9 A As best I recall, that inventory was never  
10 conducted by the RTC.

11 Q What happened with respect to the message?

12 A I don't recall.

13 Q You don't know one way or the other?

14 A No, I don't.

15 Q Did you know that Mr. Irons was assigned to  
16 work with Independent Counsel?

17 A Yes. I later learned of that fact.

18 MR. GIUFFRA: It is now 4:17. I would like  
19 to have an opportunity to at least ask Ms. Lewis some  
20 questions. You have been examining her all day and  
21 all yesterday afternoon. Yesterday you indicated you  
22 only had several hours. It is now by my count six

1 hours of examination so far.

2 MR. BEN-VENISTE: That isn't several? What  
3 is six? Mr. Giuffra, I don't understand your point.

4 MR. GIUFFRA: Several is two.

5 MR. BEN-VENISTE: Several is two? I will  
6 be sure to look that up again, because I probably  
7 don't recall having seen that in the dictionary as to  
8 what "several" means.

9 (Pause.)

10 MR. BEN-VENISTE: Mr. Giuffra, I am going  
11 to defer to you. You have been very patient.

12 THE WITNESS: Before you do conclude, there  
13 is one matter I would like to clarify. I reflected a  
14 little further on this last night. The matters with  
15 regard to when I asked the clerk in the department to  
16 make copies of the referrals and the exhibits for me,  
17 I just would like the record to clearly show --

18 BY MR. BEN-VENISTE:

19 Q Thank on. What are we talking about now?

20 A The copies of the referrals and the  
21 exhibits I made. I testified yesterday they are  
22 ultimately in the possession of my counsel.

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1 Q Ultimately?

2 A Yes. That's the matter I wish to clarify.  
3 Those copies were made in early November 1992, and I  
4 just want to make sure that the record shows that.

5 MR. FORSHEY: '92 or '93?

6 THE WITNESS: '93. I'm sorry. '93.

7 BY MR. BEN-VENISTE:

8 Q You made copies of the criminal referrals,  
9 both the '92 and '93 criminal referrals?

10 A Correct.

11 Q And what exhibits did you make copies of?  
12 There were 300 exhibits to the '92 referral, I  
13 believe, 300 pages of exhibits.

14 A When I say "exhibits," I'm talking about a  
15 packet of exhibits per referral that was bound in a  
16 red folder, and the exhibits were submitted with each  
17 referral. So I made a copy of the referral and the  
18 packet of exhibits with it, the next referral and the  
19 packet of exhibits, and so on.

20 Q You have reminded me. With respect to the  
21 '92 referral, there were about how many pages of  
22 exhibits?



1 A I never counted them. I don't know.

2 Q Roughly. A thousand? 10,000? Four?

3 A I know the court reporter can't see this,  
4 but however many documents can fit into maybe a  
5 5-inch stack.

6 Q 5 inches of documents?

7 A Roughly.

8 Q Those were sent over to the U.S. Attorney's  
9 Office?

10 A Correct.

11 Q But not the FBI?

12 A On the first referral they were sent to the  
13 U.S. Attorney. I don't recall if we sent the  
14 exhibits to the U.S. Attorney and the FBI on the  
15 second night or not.

16 Q I'm sorry. You said with respect to the  
17 first referral you sent them only to the U.S.  
18 Attorney?

19 A Yes, sir, I believe so.

20 Q Was there some reason why you didn't send  
21 them to the FBI?

22 A Not that I remember.

1 Q Wasn't it usually the other way around,  
2 that the referrals would go to the FBI with the  
3 exhibits? They would be the ones to do the legwork,  
4 wouldn't they?

5 A They went both ways.

6 Q What do you mean?

7 A They went to the U.S. Attorney's Office and  
8 the FBI, not necessarily in concert.

9 Q How would you make the distinction about  
10 when to send them to the U.S. Attorney and when to  
11 send them to the FBI? It couldn't have just been  
12 random.

13 A I could reflect back on every referral I  
14 have written and try to answer that question and I  
15 wouldn't be able to.

16 Q Did you know, with respect to the '92  
17 referral, why you sent the documents to the U.S.  
18 Attorney's Office but not the FBI?

19 A No, I don't remember.

20 Q And then with respect to the '93 referral,  
21 how many documents were involved in that?

22 A The amount of exhibits per each referral



- 1 varied. I would say --  
2 Q Of the nine aggregate referrals that  
3 comprised the '93 referral.  
4 A Eight to 12 inches worth of exhibits.  
5 Q Each?  
6 A No.  
7 Q Total?  
8 A Aggregate total.  
9 Q So roughly double the amount of documents  
10 that were in the '92?  
11 A Roughly.  
12 Q Was the '92 referral, the substance  
13 repackaged and sent along in the '93?  
14 A No.  
15 Q Was there some reason why you weren't doing  
16 that?  
17 A There was no need to at that point.  
18 Q What do you mean by that?  
19 A If I understand your question correctly,  
20 which I think is a little ridiculous in view of the  
21 fact that all I want to do is correct the record, but  
22 if I understand your question --

- 1 Q You are saying my question is ridiculous?  
2 A No. Going off on this tangent when all I  
3 wanted to do is correct the record.  
4 Q I don't think you have corrected the record  
5 yet. We haven't gotten to that point yet.  
6 A I am attempting to. Is your question  
7 whether or not the 1992 referral was resubmitted with  
8 the 1993 referrals?  
9 Q The substance of it.  
10 A No.  
11 Q I'm asking you why. That's the question  
12 you said was ridiculous.  
13 A No, that is not what I said was  
14 ridiculous.  
15 Q Okay. Strike that. Let's start afresh.  
16 A Thank you.  
17 Q Why didn't you include the substance of the  
18 '92 referral when you submitted the '93?  
19 A Because the '92 referral was still pending  
20 when the 1993 referrals went in.  
21 MR. GIUFFRA: Come on, Mr. Ben-Veniste. It  
22 is now almost 4:30. I really ought to have a chance

1 to ask some questions.

2 MR. BEN-VENISTE: The witness has asked to  
3 clarify. She hasn't gotten to the point to clarify  
4 the point she was wanting to clarify.

5 THE WITNESS: What I wish the record to  
6 reflect is the clarification that the exhibits and  
7 the referrals that I copied or had the clerk in  
8 criminal investigations copy at my request occurred  
9 in early 1992. That is the clarification for the  
10 record -- '93. I did it again.

11 BY MR. BEN-VENISTE:

12 Q You said November of '92. Now you say  
13 1993?

14 A No, sir. It was November of 1993, after  
15 the other nine referrals had been completed.

16 Q So you had the, who did you say it was, the  
17 clerk in the criminal investigations unit make copies  
18 of both the '92 referral and exhibits plus the '93  
19 referrals and those exhibits?

20 A That's correct.

21 Q And that all happened in November of '93?

22 A That is correct.

1 Q And what helped you in your recollection on  
2 that?

3 A Nothing in particular. I was just thinking  
4 about it again last night, and I recalled back to the  
5 time frame. I just wanted to make sure it was  
6 appropriately reflected in the record, which I have  
7 now done.

8 Q And when you received the letter from  
9 United States Attorney Casey inviting you to resubmit  
10 the '92 material for further prosecutive action, you  
11 had already submitted the '93 referral; is that  
12 correct?

13 A First, that's a mischaracterization.  
14 Second, the other nine referrals had been already  
15 submitted.

16 MR. GIUFFRA: It is now 4:30. I think it  
17 is just inconceivable that I should not be allowed to  
18 ask some questions.

19 MR. BEN-VENISTE: Mr. Giuffra, you have  
20 been very patient up to this point. Don't spoil it.  
21 You will get to ask questions.

22 BY MR. BEN-VENISTE:

1 Q In October of '93, Ms. Casey wrote to you  
2 and said that "my decision does not foreclose future  
3 prosecutions about the matters covered by the  
4 referral or related matters in the event that my  
5 office and the FBI are given access to records or  
6 information indicating that prosecutable cases can be  
7 made."

8 MR. GIUFFRA: I want to object. You asked  
9 this same series of questions earlier today.

10 MR. BEN-VENISTE: If you will listen,  
11 Mr. Giuffra, the witness indicated it was an unfair  
12 characterization to say that Ms. Casey was inviting  
13 resubmission of the subject matter for possible  
14 prosecution. I want to clarify that.

15 BY MR. BEN-VENISTE:

16 Q Why is that the case? Why are you saying  
17 that?

18 MR. FORSHEY: I will object to that  
19 question, because the question she was saying is  
20 unfair is that it invited the resubmission of the '92  
21 referral.

22 MR. BEN-VENISTE: Yes. We are talking

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1 about the '92 referral. What is the problem with  
2 that, Mr. Forshey?

3 MR. FORSHEY: That's not what your last  
4 question was.

5 MR. GIUFFRA: This is not in the realm of  
6 factfinding. It is in the realm of argument. Why  
7 don't you save it for the hearing?

8 MR. BEN-VENISTE: There isn't any  
9 argument. Please pay attention, Mr. Giuffra.

10 THE WITNESS: Ms. Casey clearly states that  
11 she concurred with the opinion of the department  
12 attorneys that there was insufficient information in  
13 the referral to sustain the allegations. In the next  
14 paragraph she states I am declining to take further  
15 substantive action on this referral. The rest of  
16 that sentence contradicted what she just said. I did  
17 not see that as any kind of invitation to resubmit  
18 the referral.

19 BY MR. BEN-VENISTE:

20 Q So you disregarded the last paragraph?

21 A No, sir, that's not what I said.

22 Q When you said the last paragraph

1 contradicted the first two paragraphs --

2 A It does. She contradicts herself in the  
3 last paragraph of that letter.

4 Q The last thing she says is that she will  
5 look at further information on this subject matter  
6 and consider prosecution if she gets additional  
7 information. Isn't that so?

8 A I viewed the subject matter as Madison  
9 Guaranty in whole, not that particular referral.

10 Q On that, you had already submitted nine  
11 additional referrals?

12 A That's correct.

13 Q So that in November, you had the clerk copy  
14 both the first and second referrals, the '92 and '93  
15 referrals and all the related documentation, and you  
16 say that you did not transmit those right away to  
17 your attorney; correct?

18 A Correct.

19 Q You kept them where?

20 A In a closet in my home.

21 Q And that was approximately how long before  
22 you transmitted them to Mr. Forshey?

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1 A March of 1994.

2 Q So, for approximately four months?

3 A Yes.

4 Q You kept them in the closet?

5 A Yes.

6 Q And didn't show them to anybody else?

7 A No, sir.

8 MR. BEN-VENISTE: Once again, Mr. Giuffra,  
9 unless you have something else to clarify --

10 THE WITNESS: No, thank you. I am quite  
11 through.

12 EXAMINATION

13 BY MR. GIUFFRA:

14 Q Just several questions. First, I want to  
15 make a --

16 A Would you mind sitting down here. The  
17 acoustics in this room are not terrific.

18 MR. GIUFFRA: For the record, also  
19 attending the deposition both today and yesterday is  
20 Joanne Wilson, who I have been advised is a member of  
21 the personal staff of Senator Paul Simon; is that  
22 correct?



1 MS. WILSON: Yes, and the committee staff,  
2 special committee staff. I have been since July.

3 MR. GIUFFRA: You are not --

4 MR. BEN-VENISTE: Do you want to take the  
5 time to deal with this, Mr. Giuffra? Is that what  
6 you want to do to the record now?

7 MR. GIUFFRA: I want it reflected on the  
8 record that someone who is on the personal staff of a  
9 Senator is attending a deposition.

10 MR. BEN-VENISTE: She is on the committee  
11 staff. If you listen, you will learn.

12 MS. WILSON: And have been since July. I  
13 have been working on the committee staff since July.

14 MR. BEN-VENISTE: What is your point? That  
15 you don't want counsel to be present?

16 MR. GIUFFRA: My point is,  
17 Mr. Ben-Veniste -- what is your present position at  
18 the United States Senate?

19 MR. BEN-VENISTE: You don't have to answer  
20 this. This is absurd. Get on to your other area. I  
21 thought you said you were going to get started and  
22 you were worried about time to question this witness

1 and what you want to do is to interrogate the staff.

2 MS. WILSON: I don't have a flight. I  
3 think they do.

4 EXAMINATION

5 BY MR. GIUFFRA:

6 Q Ms. Lewis, since you started your  
7 investigation into Madison, have a number of false  
8 allegations been made about you by various persons?

9 A Yes, sir.

10 Q Would you care to state for the record some  
11 of the false allegations that have been made about  
12 you since you started the Madison investigation?

13 A Yes. There has been an allegation that I  
14 have either entered into or proposed to or am writing  
15 a book, which is totally false. There have been  
16 allegations that I have leaked information to the  
17 press, which are not true. There have been  
18 allegations made that I caused this corporation, the  
19 RTC, embarrassment with regard to matters relating to  
20 Paragould savings, which is unequivocally false.

21 Q Why is it unequivocally false?

22 A The problems that transpired with Paragould



1 had very little, if anything, to do with my actions.  
2 The problems were created by the Professional  
3 Liability Section, as Mr. Iorio advised Mr. Dudine,  
4 who advised Ms. Kulka.

5 Q Why were those problems caused by the  
6 Professional Liability Section?

7 A They changed the request in the victim  
8 impact statement and the restitution order on two  
9 instances, creating almost a hostile environment with  
10 the U.S. Attorney's Office, and the allegation was  
11 made that that was in large part my fault.

12 Q And it was not your fault?

13 A No, sir.

14 Q Could you go through some of the other  
15 false allegations that have been made against you  
16 since you started working on the Madison  
17 investigation?

18 A They are numerous.

19 Q I would like you to tick them all off.

20 Feel free.

21 MR. FORSHEY: Let me point out that  
22 Ms. Lewis has been here now for two full days. To

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1 the best she can recall, I'm sure she will try.

2 THE WITNESS: I have been accused of lying  
3 to Congress under oath. I have been --

4 BY MR. GIUFFRA:

5 Q That allegation was false?

6 A Absolutely. I have been repeatedly  
7 maligned by various attorneys and co-workers at the  
8 RTC just within the general environment before and  
9 after the recent hearings; after the recent hearings,  
10 it became worse.

11 Q Could you please describe that for the  
12 record in a little more detail.

13 A Before or after the hearings?

14 Q Let's do before the hearings. Then you can  
15 do after the hearings.

16 A Before the House Banking Committee  
17 hearings, the workplace was still a tenable  
18 environment. After, it became virtually untenable.

19 Q How did the workplace become an untenable  
20 environment after you testified before the House  
21 Banking Committee?

22 A People that I previously worked with that

1 were willing to be cooperative showed a new,  
2 heightened level of lack of cooperation, lack of  
3 willingness to cooperate. Rude comments were made.

4 Q Could you give us examples of some of the  
5 rude comments RTC employees made about you after you  
6 testified before the House Banking Committee?

7 A Yes, sir. One particular employee walked  
8 by me one day and as he walked by me he called me a  
9 lying bitch.

10 Q Was that person a supervisor?

11 A Yes.

12 Q Who was the person who called you a lying  
13 bitch?

14 A Mr. Pat Robison.

15 Q Who was Mr. Pat Robison?

16 A He was Mr. Ausen's supervisor at the time.

17 Q Let's get some more examples that you  
18 believe to be untoward conduct that occurred toward  
19 you after you testified before the House Banking  
20 Committee.

21 A I have been told of other investigators who  
22 having listened to the hearings, talked for the two

1 days after the first of the hearings about how they  
2 believed I was lying, that these people who were  
3 staunch supporters of individuals in the Professional  
4 Liability Section felt that my testimony had been  
5 unfair, did not hesitate to share their attitudes and  
6 opinions with other people, which just generated a  
7 very hostile environment for me. I found ugly notes  
8 left in my office.

9 Q Let's get some examples of some of the ugly  
10 notes left in your office after you testified before  
11 the House Banking Committee.

12 A My very last day at the RTC when I walked  
13 into my office, there was a note taped to my  
14 computer.

15 Q What did that note say?

16 A "When you leave, please be sure you advise  
17 the Democratic National Committee so we can remove  
18 the listening devices from your office. Thank you  
19 very much for the many hours of pleasure you have  
20 given us."

21 Q Would you describe for the record any other  
22 acts you believe that were hostile that were directed

1 at you by RTC employees at any time during the course  
2 of your involvement with regard to Madison up to the  
3 time you left the RTC?

4 A First and foremost, being placed on  
5 administrative leave with absolutely no explanation  
6 to this day as to why it occurred.

7 Q Do you have any understanding as to why you  
8 were placed on administrative leave?

9 A No, sir. I have never been given an  
10 explanation.

11 Q Has anything ever been provided to you in  
12 writing?

13 A No, sir, not by way of explanation.

14 Q Were you aware an investigation was  
15 conducted of you by various RTC employees,  
16 supervisors?

17 A Yes, I am.

18 Q You have never been shown any sort of  
19 documentation listing charges that were made by these  
20 RTC supervisors against you?

21 A No, sir, I have not.

22 Q Ms. Lewis, would you care to add any other

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1 false allegations that have been made against you,  
2 respond to those allegations now on the record?

3 A Mr. Giuffra, if I had more time and the  
4 opportunity to think it through very clearly, I would  
5 be delighted to respond to those allegations on the  
6 record. Given the time constraints, it is going to  
7 be very difficult.

8 Q Why do you think these false allegations  
9 have been made against you since you became involved  
10 in the Madison investigation?

11 A I don't really understand why all that has  
12 happened. I did my job. I followed it through, and  
13 because some people may not have liked the results of  
14 what has happened with the job that I did, I don't  
15 see that that is cause to create hostility in the  
16 work environment.

17 Q Who do you think some people are who have  
18 not liked the results of your investigation into  
19 Madison?

20 A It has been my impression that some of the  
21 staff in PLS and some of the staff in investigations  
22 did not agree with the conclusions that were



1 contained within the Madison criminal referrals.

2 Q Why don't you specify the names of those  
3 persons at the RTC who did not agree with the  
4 conclusions contained in your referrals regarding  
5 Madison?

6 A To the best of my knowledge in  
7 investigations Mr. Robison, Mr. Sanford McCann,  
8 Mr. Richard Parks, Ms. Diana Goesha, Ms. Linda  
9 Thompson, Ms. Teresa Thompson, Ms. Carlene Ryan.

10 Going into the legal side of it, Ms. Yanda,  
11 Ms. Carmichael, Mr. Dwayne Curtis, Mr. Hindes,  
12 Mr. Gabrellian, Ms. Kulka, Mr. Tomback.

13 Q Ms. Lewis, do you think that these RTC  
14 supervisory personnel were acting at the direction of  
15 senior political appointees -- strike that.

16 Why do you think that these senior RTC  
17 personnel were acting in an adverse manner toward you  
18 in your work in connection with Madison?

19 MR. BEN-VENISTE: I think that the last  
20 response were people who did not agree with the  
21 criminal referrals, unless I missed something. You  
22 seem to have shifted ground.

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1 MR. GIUFFRA: We will rephrase the  
2 question.

3 BY MR. GIUFFRA:

4 Q Ms. Lewis, do you have any belief as to why  
5 these RTC supervisory personnel disagreed with the  
6 conclusions -- the allegations contained in your  
7 referrals relating to Madison Guaranty Savings & Loan  
8 Association?

9 A Based on what I have seen, Mr. Giuffra, and  
10 the efforts that I have observed to try and impede  
11 this investigation, the most obvious point of  
12 reference is that they were not happy with the  
13 political situation that may have been evolving as a  
14 result of those referrals and the identification of  
15 the Clintons as potential witnesses.

16 Q Do you have any understanding as to whether  
17 persons outside the RTC put pressure on RTC  
18 supervisory personnel to in any way affect your  
19 investigation in Madison Guaranty?

20 A Would you restate that, please.

21 Q Do you have any belief as to whether --  
22 MR. BEN-VENISTE: Belief or any



1 information.

2 MR. GIUFFRA: This is asking for her  
3 belief. Then we will get to information.

4 BY MR. GIUFFRA:

5 Q Do you have any belief as to whether  
6 pressure was brought to bear on senior RTC officials  
7 by other persons in the government with regard to  
8 impeding your investigation of Madison?

9 A I believe --

10 MR. BEN-VENISTE: Wait a second.

11 MR. GIUFFRA: Let her answer the question.

12 MR. BEN-VENISTE: I have an objection to  
13 the form of the question. You jumped from impeding  
14 the investigation or to impeding the investigation  
15 from disagreeing with the basis for the criminal  
16 referral. I would like to register an objection as  
17 to the form of having done that.

18 BY MR. GIUFFRA:

19 Q Go ahead, Ms. Lewis.

20 THE WITNESS: I need the question read  
21 back.

22 (The reporter read the record as requested.)

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1 THE WITNESS: I believe the possibility  
2 exists that personnel in other agencies may have  
3 attempted to bring pressures to bear on certain  
4 people at the RTC.

5 BY MR. GIUFFRA:

6 Q During --

7 MR. BEN-VENISTE: I thought you were going  
8 to get to whether there is any actual information.

9 BY MR. GIUFFRA:

10 Q Do you have any actual information with  
11 regard to, at least you personally, with regard to  
12 whether persons in other agencies in the government  
13 tried to pressure senior RTC officials with regard to  
14 how your investigation of Madison would be conducted?

15 A Personal information, no. Numerous  
16 circumstances that have pointed me in the direction  
17 of believing that, yes.

18 Q What are those numerous circumstances that  
19 have pointed you in the direction of believing that  
20 persons outside the RTC but in the government put  
21 pressure on senior RTC personnel to in some way  
22 hinder your investigation into Madison?

1 A The possibility that that pressure was  
2 there to me is part and parcel of what I have already  
3 testified to before the House Banking Committee with  
4 regard to what happened with Justice and Treasury and  
5 within the RTC.

6 Q Ms. Lewis, you chose to go to  
7 Representative Leach -- strike that.

8 Why did you choose to go to Representative  
9 Leach with your grievances with regard to how the  
10 Madison criminal referral was being handled?

11 A Mr. Leach was the ranking member at that  
12 time of the House Banking Committee, which did have  
13 oversight authority of the RTC. Mr. Gonzalez had  
14 previously indicated as chairman that he felt the  
15 committee had a vested interest in proceeding with  
16 the potential investigation of the failure of  
17 Madison.

18 Two weeks after he made that comment,  
19 according to what I read in the press, he retracted  
20 it, changed his mind and there was no reason printed  
21 or no reason I have seen as to why he changed his  
22 mind.

1 I determined that going to Mr. Gonzalez was  
2 probably not going to provide me with any kind of an  
3 objective basis for presenting the situation.

4 Q Ms. Lewis, why didn't you try to contact  
5 Roger Altman, who was then head of the RTC?

6 A It was fairly common knowledge that  
7 Mr. Altman had close ties to the White House, and I  
8 did not think it would be appropriate to go to  
9 Mr. Altman.

10 Q Were you concerned that perhaps Mr. Altman  
11 might communicate information that you might provide  
12 to him to persons in the White House, including the  
13 Clintons?

14 A That was one of my concerns.

15 MR. BEN-VENISTE: I really object to this,  
16 but go ahead.

17 MR. GIUFFRA: I sat there and listened to  
18 your questions, sir.

19 MR. BEN-VENISTE: I think that had to  
20 something more to do with facts than speculation  
21 which you are now developing.

22 BY MR. GIUFFRA:

1 Q Why did you not contact Attorney General  
2 Janet Reno with regard to your concerns with regard  
3 to the handling of the Madison criminal referral?

4 A I had no comfort level with certain  
5 individuals within the Justice Department at that  
6 point because Mr. Hubbell was there, who had very  
7 close ties to this administration in the White House,  
8 but more specifically because I had to chase the  
9 first referral through a particular Department of  
10 Justice and had lost a significant amount of my  
11 confidence in that department.

12 Q Did Ms. Breslaw ever indicate to you that  
13 she had a relationship, professional relationship  
14 with Mr. Hubbell prior to the time he came to  
15 Washington?

16 A No.

17 Q Mr. Ben-Veniste asked you a lot of  
18 questions about your time records. Were you paid on  
19 an hourly basis at the RTC?

20 A No.

21 Q So the time records were only a way for  
22 your supervisors to keep track of the matters that

1 you were working on; is that correct?

2 A Yes, sir, and a way for the payroll people  
3 to allocate the particular dollar amounts billed to  
4 each institution.

5 Q Now, you were taken off the Madison  
6 investigation when?

7 A November 9, 1993.

8 Q After November 9th, 1993, you continued to  
9 perform some work related to the Madison  
10 investigation; correct?

11 A Correct.

12 Q And some of that work had to do with the  
13 investigation of the Office of Independent Counsel;  
14 correct?

15 A Correct.

16 Q That work was reflected in your time  
17 records, wasn't it?

18 A Yes, sir.

19 Q And you also performed some work in  
20 connection with an inquiry that was being conducted  
21 by Pillsbury, Madison & Sutro, a law firm in  
22 San Francisco with regard to Madison?

- 1 A Yes.
- 2 Q That time was reflected in your time
- 3 records; correct?
- 4 A Yes, to my knowledge it was.
- 5 Q There was nothing improper about you
- 6 assisting the Independent Counsel with the matter,
- 7 was there?
- 8 A No.
- 9 Q There was nothing improper about you
- 10 assisting Pillsbury, Madison & Sutro, was there?
- 11 A No, sir.
- 12 Q You also assisted the person who replaced
- 13 you in connection with the Madison investigation?
- 14 A Yes.
- 15 Q Who was that person?
- 16 A Mr. Michael Caron.
- 17 Q There was nothing improper about you
- 18 assisting Mr. Caron with regard to his further
- 19 efforts, was there?
- 20 A I don't believe so.
- 21 Q That time was reflected in your time
- 22 records, wasn't it?

- 1 A Yes.
- 2 Q Now, there were a lot of questions about
- 3 the fact that -- strike that.
- 4 Am I correct that from the time -- strike
- 5 that.
- 6 During the time you worked at the RTC, did
- 7 you attempt to keep your supervisors aware of how you
- 8 were spending your time?
- 9 A Yes.
- 10 Q And after you were formally taken off the
- 11 Madison investigation in November of 1993, did you
- 12 continue to keep your supervisors advised as to how
- 13 you were spending your time?
- 14 A Absolutely.
- 15 Q Who were your supervisors?
- 16 A Mr. Ausen and Mr. Iorio.
- 17 Q And were they fully aware of how you were
- 18 spending your time to the extent you were spending
- 19 time with regard to Madison?
- 20 A Yes.
- 21 Q And you did not attempt to conceal from
- 22 them the fact that you were continuing to do work on



1 Madison?

2 A No, sir.

3 Q Now, you also provided some assistance  
4 after November 1993 with regard to the civil review;  
5 correct?

6 A Correct.

7 Q And that time was also reflected in your  
8 entries?

9 A I believe so.

10 Q Am I correct with regard to the news  
11 summary project that you prepared with regard to  
12 Madison, that was something your supervisors asked  
13 you to do?

14 A That's correct.

15 Q This was not a Jean Lewis idea?

16 A No, sir.

17 Q There were a lot of questions about how you  
18 discarded your old tape-recorder. Again, the  
19 tape-recorder was purchased when?

20 A The new recorder?

21 Q The old recorder.

22 A 1986.

1 Q And at the time you discarded the  
2 tape-recorder, you weren't intending to conceal  
3 anything from anyone with regard to how you had  
4 recorded the Breslaw conversation; is that correct?

5 A That's correct.

6 Q Why did you discard the tape-recorder?

7 A It was broken. Why keep it?

8 Q No one had served a subpoena on you for the  
9 tape-recorder at that point?

10 A No, sir.

11 Q Had anyone requested that you keep the  
12 tape-recorder?

13 A No, sir.

14 Q Let's talk about Sue Schmidt. You have  
15 testified that there came a time when she arrived at  
16 your doorstep; correct?

17 A Correct.

18 Q She came to your doorstep unsolicited;  
19 correct?

20 A Correct.

21 Q It was cold. What time of the year was  
22 this when she came to your doorstep?

1 A October.

2 Q Was it cold in Kansas City in October?

3 A I recall it was pretty chilly at that point  
4 in October.

5 Q And you allowed Ms. Schmidt to enter your  
6 house, the vestibule of your house for a few moments?

7 A Correct.

8 Q And you did not provide any information to  
9 Ms. Schmidt during the time when she was in the  
10 vestibule of your home?

11 A That's correct.

12 Q And the only reason you allowed Ms. Schmidt  
13 to enter the vestibule of your home was to be  
14 courteous?

15 A Correct.

16 Q Midwestern in a way probably?

17 A More Texan.

18 MR. FORSHEY: Mr. Giuffra, we are trying to  
19 walk out the door at 5:00.

20 MR. GIUFFRA: Any minute I will be done.

21 BY MR. GIUFFRA:

22 Q There were a lot of questions that

1 Mr. Ben-Veniste asked you about why -- with regard to  
2 the handling of certain other matters. He asked you  
3 about First Savings; is that right?

4 MR. BEN-VENISTE: I didn't hear the  
5 question.

6 BY MR. GIUFFRA:

7 Q Mr. Ben-Veniste asked you about First  
8 Savers?

9 A Savers or First Savings?

10 Q He asked you about First Savings.  
11 Your supervisors were aware of how you were  
12 spending your time; correct?

13 A Correct.

14 Q With regard to the First Federal matter,  
15 you kept them apprised of the status of that matter?

16 A First Federal of Little Rock?

17 Q Yes.

18 A Yes. First Federal of Fayetteville, yes.

19 Q And to the extent there was a need for  
20 reallocation of RTC staff, that was a decision for  
21 your supervisors to make, not for you to make?

22 A That's correct.

1 Q With regard to Savers Savings, again, you  
2 kept your supervisors apprised as to how you were  
3 spending your time with regard to that matter?

4 A Yes.

5 Q They were aware of the status of that  
6 matter?

7 A Yes.

8 Q You didn't attempt to conceal anything from  
9 your supervisors with regard to how you were handling  
10 that matter?

11 A No.

12 Q You did not seek out the Madison  
13 investigation; is that correct?

14 A That's correct.

15 Q That was a matter that was assigned to you?

16 A That is correct.

17 Q It fell into your lap, so to speak?

18 A So to speak.

19 Q Now, decisions as to why Madison was placed  
20 ahead of other S&Ls in Arkansas, those were not  
21 decisions that you made?

22 A That's correct.

1 Q Those were made by supervisors at the RTC  
2 who you reported to?

3 A Yes, sir.

4 Q And your supervisors determined that you  
5 should spend your time working on the Madison  
6 matter?

7 A Yes, sir.

8 Q Mr. Ben-Veniste asked you a number of  
9 questions about the fact that you were making  
10 telephone calls from home during the business day.  
11 During 1992, approximately how many hours do you  
12 estimate that you spent working for the RTC? Just a  
13 rough ballpark.

14 A The standard number of hours I believe is  
15 2080. But I recall putting in overtime as well, so  
16 somewhat over that number.

17 Q How about in 19 -- I asked you about '93.

18 A I thought you asked me about 1992.

19 Q Now '93, do you recall approximately how  
20 many hours you spent working for the RTC in '93?

21 A More than I did in 1992.

22 Q So in excess of 2000 hours a year?

1 A Yes.

2 Q And in 1994, did you spend in excess of  
3 2000 hours working for the RTC?

4 A Yes.

5 Q So in 1992, 1993 and 1994, you spent in  
6 excess of 2000 hours during each of those years  
7 working for the RTC?

8 A Yes.

9 Q During those years, did anyone complain  
10 that you were not spending -- strike that.

11 Did any of your supervisors complain you  
12 were not spending enough time working for the RTC?

13 A No, sir.

14 Q Did you ever receive any written  
15 communication from anyone at the RTC indicating you  
16 weren't spending enough time on RTC matters?

17 A No, sir.

18 Q In connection with the Savers matter,  
19 Mr. Ben-Veniste asked you about a witness who  
20 subsequently gave you some documents when you met  
21 with that person. Do you recall that?

22 A Yes.

1 Q Were other persons at the RTC aware of the  
2 fact that you had met with this witness?

3 A Yes.

4 Q Were other persons at the RTC aware of the  
5 fact that this witness had given you some documents?

6 A Yes.

7 Q Who was aware that you had met with the  
8 witness?

9 A Mr. Ausen, Mr. Iorio, Ms. Day, Ms. Neysa  
10 Day, I believe her supervisor, Mr. Curtis and I  
11 believe Ms. Yanda.

12 Q Were all aware you met with this witness?

13 A Yes.

14 Q Who was aware you received documents from  
15 the witness?

16 A Mr. Ausen, Mr. Iorio, myself and Ms. Day.

17 Q Did you at any time attempt to conceal the  
18 fact that you had these documents in your office from  
19 anyone at the RTC?

20 A No.

21 Q And you would have been glad to give the  
22 documents to someone had they asked you to give them



1 to someone else to look at the documents?

2 A Certainly.

3 Q Ms. Lewis, are you aware that certain RTC,  
4 senior RTC personnel have been critical of the fact  
5 that you tape-recorded Ms. Breslaw?

6 A Yes.

7 Q Why do you think they have been critical of  
8 the fact that you tape-recorded Ms. Breslaw?

9 MR. BEN-VENISTE: You are seriously asking  
10 those questions?

11 MR. GIUFFRA: Absolutely.

12 THE WITNESS: During the conversation,  
13 Ms. Breslaw represented that Jack Ryan and Ellen  
14 Kulka, the people at the top of the RTC, would like  
15 to be -- say Whitewater did not cause a loss to  
16 Madison. It was my subsequent understanding that  
17 neither Mr. Ryan nor Ms. Kulka -- well, let me  
18 restate that.

19 Mr. Ryan and Ms. Kulka have both denied  
20 having indicated that they ever said any such thing  
21 to Ms. Breslaw. I would suspect they are not very  
22 happy with her representation to that effect.

1 MR. FORSHEY: Mr. Giuffra, are we there?

2 MR. GIUFFRA: A few minutes more. I am  
3 almost done. I know you guys want to go.

4 BY MR. GIUFFRA:

5 Q Are you aware of the allegation that you in  
6 some way mishandled the Cimmaron criminal referral?

7 A Yes.

8 Q What would be your response to that  
9 allegation?

10 A It is ridiculous.

11 Q Why is it ridiculous?

12 A I had as much of a working knowledge as Ed  
13 Noyes did on that referral. I participated in its  
14 preparation. I was fully cognizant of what he was  
15 doing, saw the analysis when it came back from PLS,  
16 made my additional comments on it, participated in  
17 the investigation as though I would have participated  
18 in any other investigation for which I was lead  
19 investigator with the exception of allowing Mr. Noyes  
20 to draft the predominant part of the referral.

21 Q Mr. Ben-Veniste asked you a series of  
22 questions about the fact that publicity regarding

1 criminal referral 0004 might have some sort of an  
2 impact on the 1992 presidential campaign. Do you  
3 remember those questions?

4 A Yes.

5 Q Insofar as you are aware, was the fact that  
6 the Clintons were named as witnesses in criminal  
7 referral 0004 ever disclosed during the 1992  
8 presidential campaign?

9 A No, not that I'm aware of.

10 Q And you took special efforts during 1992 to  
11 keep the contents of that referral confidential so  
12 that they would not be disclosed to the public?

13 A That is correct.

14 MR. GIUFFRA: Ms. Lewis, I have no further  
15 questions. Thank you for your cooperation. I very  
16 much appreciate the fact that you have been here for  
17 two days and had to tolerate all of our questions. I  
18 want to thank you and your counsel for promptly  
19 providing documents to the committee. We very much  
20 appreciate it, and particularly getting your phone  
21 records so promptly. We very much appreciate that.

22 MR. FORSHEY: One last item for the

1 record. I understood from some questions that went  
2 on here that there were some documents that indicated  
3 why Ms. Lewis was placed on administrative leave. I  
4 have not seen that document, nor has Ms. Lewis. I  
5 would ask, if appropriate, that document be provided  
6 to me as her counsel.

7 (Whereupon, at 5:05 p.m., the deposition  
8 was concluded.)

9  
10 -----  
11 L. JEAN LEWIS  
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22

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

*Brenda Smonskey*  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

DEPONENT JEAN LEWIS**ERRATA**

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
19	6	"INCARCERATIONS"	"INFORMATION"	STENO OR TRANSCRIPT ERROR
19	9	"LOS COLENIS"	"LAC COLINAS"	STELLING ERROR
24	5	"MINUTES"	"MEETINGS"	STENO OR TRANSCRIPT ERROR
24	13	"HUGGINS WORK"	"HUGGINS REPORT WAS"	" "
30	2	"CRIMINAL INVESTIGATIVE HEAR"	"INVESTIGATIVE SECTION"	
30	11	"CORRECTIVE"	"CORRECT"	STENO OR TRANSCRIPT ERROR
32	21	"DEMAND TO"	"DEMAND"	
71	8	"BEON"	"DUNNE"	
73	11	"CONFLICTED"	"CONFLICTING"	
87	19	"KAREN"	"CARON"	
104	7	"INVESTED"	"UESTED"	
113	20	"DELANOR"	"DELANO"	
115	8	"LOREEN"	"LORENE"	
115	10	"ATTEMPTS MYSELF"	"ATTEMPTS AT SELF"	
121	17	"DID"	"DIDN'T"	
124	18	"ROLEY"	"ROELLE"	
131	8	"LEAN"	"GLION"	
139	9	"C"	"KC"	
140	20	"PRESCIENT"	"PRESIDENT"	
147	1	"PLS"	"PLS AND"	
149	4	VISIT	VISIT FROM	

(OVER)



<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>TO</u>
152	1	CONTACT	COMMENT
152	2	JANKOWSKY	JANKOWSKI
161	7	TRUST	JUSTICE
164	22	HOUSE	NOTES
191	21	<del>ALAN</del> CORBIN	ALAN CORBIN
206	11	ON	OFF
408	9	SEVENTH	SOUTHERN



Kansas City Office  
INTEROFFICE MEMO

April 28, 1994

RECEIVED  
4-29-94

To: Kim Claxton  
Senior Attorney

From: Lee Ausen   
Investigations

Subject: Criminal Referral  
Cimmaron Federal

Please review the enclosed criminal referral and exhibits. If I can be of any assistance do not hesitate to contact me at x-7243. If there are no problems or concerns with this referral I would like to send it to the US Attorney by May 12, 1994. Thank You.

TS0357

ROUSE

To: Lee O. Ausen@INVEST-1@RTCKC  
Cc: L. Richard Iorio@INVEST-1@RTCKC  
L. Jean Lewis@INVEST-1@RTCKC  
Julie F. Yanda@LEGAL-PLS@RTCKC  
C. Duane Curtis@LEGAL-PLS@RTCKC  
Bcc:  
From: Kimberle K. Claxton@LEGAL-PLS@RTCKC  
Subject: Criminal Referral -- Cimmaroon (#1219/8610)  
Date: Monday, May 16, 1994 16:14:04 CDT  
Attach: \KKC\WP\CRIMINAL\CIMMARON  
Certify: N  
Forwarded by:

-----  
Lee: Attached please find my comments concerning the Cimmaron Federal Criminal referral dated April 28, 1994. Please feel free to contact me if you have any questions. Thanks. Kim

OCT 5 '92 16:01 FROM US ATTORNEYS OFFICE

PAGE.021

MADISON GUARANTY SAVINGS & LOAN  
CRIMINAL REFERRAL CORR  
AUGUST 11, 1993  
PAGE 19

R. D. Randolph - former McDougal business associate; allegedly involved with several of the combined companies.

Bonnie Crochran - currently employed by MCKL's successor entity, Central Bank and Trust. Formerly involved in administration at the Association; allegedly knowledgeable regarding the Institutions Demand Deposit Accounts and their holders.

Charles E. James - accountant for the combined companies, and registered agent for Whitewater Development Corporation.

# 11. DISCOVERY AND REPORTING:

- a. Who discovered the suspected violation and when?

Investigator: in May 1992

- b. Has the suspected violation been reported to the Board of Directors?  
☒ Yes ☐ No ☐ Not Applicable

By whom and when? Not Applicable

- c. Has the Board of Directors taken action?  
☒ Yes ☐ No ☐ Not Applicable

If so, what and when? Not Applicable

- d. Has the suspected violation previously been reported to federal or local law enforcement or to any federal or state supervisory agency?  
☒ Yes ☐ No

If Yes, Agency:

Agent:

Address: (City/State)

Telephone Number:

# 12. LOSSES:

- a. Amount of Loss known: \$

Undetermined at this time

- b. Restitution by:

Not Applicable

- In the amount of: \$

Not Applicable

- c. Name of Applicable Surety Bond Company:

- d. Amount of Bond: \$

- e. Amount of deductible: \$

- f. Was claim filed? ☐ Yes ☒ No

- g. Settlement by Surety Company: \$

- h. Total restitution and settlement to date: \$ Not Applicable

- i. Net Loss: (After subtracting any amounts paid in the form of restitution or settlement) \$

- j. Is additional loss suspected? ☒ Yes ☐ No  
 (If yes, explain)

The nature of the transactions identified in this referral could lead to additional losses under further investigation.

- k. Has the suspected violation had a material impact on, or otherwise affected, the financial soundness of the institution? If so, please explain.

Yes; the activities identified and alleged within this referral could have contributed to the failure of the institution.

000001712



Madison Guaranty Savings & Loan  
Criminal Referral #730CR0211  
September 23, 1993 Page 9

Have the excluded information or documents been segregated for later retrieval?  
\_\_\_\_ Yes X No

9. HAS SUSPECTED INDIVIDUAL(S) MADE ANY ADMISSIONS?

\_\_\_\_ Yes X No If so, who?

10. WITNESSES:

List any witnesses who might have information about the suspected violation and describe their position or employment. Indicate if they have been interviewed. (Use continuation sheet, if necessary.)

	NAME	POSITION	ADDRESS (CITY/STATE/ZIP)	TELEPHONE NUMBER	INTERVIEWED	
					YES	NO
1.	Greg Young	Former CFO	Little Rock, Arkansas			
2.	Ken Pascock	Related to former Director				
3.	Greg Hopkins					
4.	Sarah Wortham Hawkins	Former Sr. VP	Little Rock, Arkansas			
5.	Charles I. Pascock IV	Son of Charles III, former Director	Little Rock, Arkansas			
6.						

11. DISCOVERY AND REPORTING:

- a. Who discovered the suspected violation and when?

Resolution Trust Corporation Criminal Investigation staff on or about 9/93.

- b. Has the suspected violation been reported to the Board of Directors?

\_\_\_\_ Yes X No

By whom and when?

- c. Has the Board of Directors taken action?

\_\_\_\_ Yes X No

If so, what and when?

- d. Has the suspected violation previously been reported to federal or local law enforcement or to any federal or state supervisory agency?

\_\_\_\_ Yes X No

If Yes, Agency:

Agent:

Address: (City/State)

Telephone Number:

12. LOSS:

- a. Amount of Loss known: \$950,000. APPROXIMATELY

- b. Restitution by: N/A

- c. In the amount of: \$ -0-

- d. Name of Applicable Surety Bond Company: N/A

- e. Amount of Bond: \$ N/A

- f. Amount of deductible: \$ N/A

- g. Was claim filed? \_\_\_\_ Yes X No

- Settlement by Surety Company: \$ N/A

1110419

2ND STORY of Level 1 printed in FULL format.

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Newsweek

August 15, 1994 , UNITED STATES EDITION

SECTION: NATIONAL AFFAIRS; Whitewater; Pg. 54

LENGTH: 830 words

HEADLINE: From Scandal to Farce

BYLINE: MICHAEL ISIKOFF and MARK HOSENBALL in Washington

HIGHLIGHT:

And now, yet another new prosecutor

BODY:

WHITewater IS AT LEAST GOOD FOR business. Jean Lewis, the original whistle-blower whose charges of a cover-up helped persuade congressional Republicans to look into the scandal, has decided to market T shirts, bumper stickers and Post-It notes. One of the logos thought up by the Resolution Trust Corp. investigator, according to a retainer agreement signed with a Dallas law firm, is B.I.T.C.H., short for "Boys, I'm Taking Charge Here" (or "Bill, I'm Taking Charge, Hillary").

When does scandal become farce? Already, the Whitewater investigation has consumed thousands of man-hours by dozens of FBI agents and government lawyers who have conducted three investigations under two prosecutors. Despite relentless press coverage, most Americans would be hard put to answer a quiz on the basic issues, such as: what crime might the Clintons have committed? (Answer: some sort of possible fraud involving their Arkansas real-estate investment and its relationship to a failed Service more than a decade ago.) The tedious congressional hearings that ended last week didn't even deal with the alleged crime. They focused only on the question of whether administration officials had interfered with the investigation, or -- even if they hadn't -- whether they had lied to Congress.

Last week Whitewater got yet another new prosecutor. In a move that will add months, if not years, to the case, and that induced new anxiety in the White House, a three-judge panel refused to accept the appointment of Whitewater independent counsel Robert Fiske. Instead, the judges picked Kenneth Starr, 48, a former court of appeals judge and U.S. solicitor general in the Bush administration. Starr will now have to organize a new staff. He can pick up where Fiske left off -- or start all over again.

The judges did not question Fiske's integrity. Rather, they saw an "appearance" problem. Fiske had initially been named by Attorney General Janet Reno last January because the Watergate-era special-prosecutor law had been allowed to lapse by Congress, mostly because of Republican opposition. The law was revived this year, and most people expected the panel of judges to simply endorse Fiske's appointment. But the judges ruled that it was inconsistent with the independent counsel's act for the Clinton administration to play any role in the selection of the special prosecutor.

Newsweek, August 15, 1994

It may or may not be relevant that two of the three judges on the panel that rejected Fiske were Republican appointees, and one of them, David Sentelle, is an acerbic Reaganite. Right-wingers regarded Fiske as suspicious: a former U.S. attorney, he had represented Democratic elder Clark Clifford in the BCCI case and had been a friend of former White House counsel Bernie Nussbaum in New York legal circles. The Wall Street Journal editorial page kept after Fiske with headlines like TOO MUCH BAGGAGE -- (shortly after his appointment last January), THE FISKE COVER-UP and THE FISKE COVER-UP II. Still, most observers, Democrat and Republican alike, thought Fiske was conducting a neutral and fair-minded investigation.

In fact, in many ways he is not much different from his replacement, Ken Starr. Both are regarded as earnest, upright, straightforward. The main difference is that Fiske was an experienced prosecutor, whereas Starr, a former appeals judge, has never handled a criminal trial. He will have to learn on the job as he tries to master voluminous details in a tangled ease.

The White House is worried that Starr, a conservative Republican, will be more aggressive. And aides point out that Starr himself has a slight "appearance" problem. He has talked before to the lawyers handling Paula Jones's lawsuit against President Clinton, and was considering filing a brief attacking Clinton's argument that presidents should enjoy legal immunity while they are in office.

The fact that Starr is free to reopen any aspect of the ease is potentially bad news for the Clinton administration officials who just spent the last two weeks testifying before Congress on the question of whether they improperly sought to interfere with the federal investigation of Whitewater. Fiske had concluded that there was no criminal obstruction of justice. Most ominously for Deputy Treasury Secretary Roger Altman, whose testimony was repeatedly contradicted by others during the hearings, Starr could commence a perjury investigation. (A NEWSWEEK Poll showed that by 38 percent to 28 percent, Americans thought Altman should go, with 84 percent undecided.) Starr's appointment may mean more grand juries, more legal fees and further proof, if any was needed, that America has a government of lawyers, not men.

#### NEWSWEEK POLL

Have the recent congressional hearings made you more likely or less likely to think of Whitewater as a serious issue, or have they not had much effect?

19% More likely

9% Less likely

66% No effect

THE NEWSWEEK POLL, AUGUST 4-5, 1994

GRAPHIC: Picture, Forced out: Citing 'appearance' problems, a three-judge panel sends Fiske home early, WALLY McNAMEE FOR NEWSWEEK

LANGUAGE: ENGLISH

LOAD-DATE: August 16, 1994

**TRANSCRIPT OF TAPE RECORDING  
IN RE: S. RES. 120**

---

**WEDNESDAY, FEBRUARY 2, 1994**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.***

**CONVERSATION BETWEEN  
L. JEAN LEWIS, RTC CRIMINAL INVESTIGATOR  
AND  
APRIL BRESLAW, FDIC PLS ATTORNEY**

**(THIS TRANSCRIPT WAS PREPARED FROM  
A PROVIDED TAPE RECORDING.)**

**MONDAY, NOVEMBER 13, 1995**



UNITED STATES SENATE  
WHITEWATER INVESTIGATION

\* \* \*

CONVERSATION BETWEEN  
L. JEAN LEWIS, RTC CRIMINAL INVESTIGATOR  
AND  
APRIL BRESLAW, FDIC PLS ATTORNEY  
FEBRUARY 2, 1994

(THIS TRANSCRIPT WAS PREPARED  
FROM A PROVIDED TAPE RECORDING.)

---

2

1           JEAN LEWIS: The following conversation  
2 took place on February 2, 1994 in the RTC's Kansas  
3 City Office of Investigation between myself, senior  
4 criminal investigator Jean Lewis, and PLS attorney  
5 April Breslaw from the FDIC office in Washington,  
6 D.C.

7           The conversation lasted from approximately  
8 4:00 p.m. until 4:35 p.m.

9           April was sent by the FDIC to participate  
10 in an internal review of the investigative procedures  
11 utilized during the investigation of Madison  
12 Guarantee Savings. Her emphasis was on Whitewater  
13 Development, at the instructions of FDIC PLS attorney  
14 Mark Abramowitz.

15          FIRST VOICE: Whether under normal  
16 circumstances we would be so preoccupied with  
17 Whitewater, I don't know, but, you know, because  
18 that's the catch word and everything -- get after  
19 that -- they seem to ask and ask and ask --

20          SECOND VOICE: It seems to have become a  
21 catchall phrase.

22          FIRST VOICE: Yes, and I think that

1 somehow or other, we're going to have -- this group  
2 eventually is going to have to make some kind of  
3 statement about whether or not there is any loss to  
4 Madison, ever, to Whitewater because everybody  
5 realized they had no loan there, so that crosses off  
6 the most obvious choice.

7 Probably, and I'm sure you know this  
8 better than I do, so many checks went in and out of  
9 there that it's hard to say exactly what happened in  
10 that checking account.

11 What I should have brought along and  
12 didn't, was Gary had given me a, kind of a ledger --  
13 not a ledger but a statement of debits and credits  
14 from Whitewater and he also had found this by the  
15 time I got here. He had one folder of material that  
16 -- he had one folder of material that had these work  
17 papers in it, it happened to be from Maple Creek  
18 Farms.

19 So my first question is, is there anything  
20 else like this, this kind of a listing for the other  
21 projects. And I'll show you the reason why this  
22 one's --

1 SECOND VOICE: -- to do with \$30,000  
2 engineering survey --

3 FIRST VOICE: I didn't bring along the  
4 chart. On the sheet that Gary had given me -- you  
5 know, it shows money in and out of the Whitewater  
6 checking account. From that, when I looked at it, --  
7 this is 1985, but it doesn't really show when.

8 I can see on there that in April of '85,  
9 Whitewater wrote a \$30,000 check to McDougal and  
10 there are notes in there about it becoming a  
11 cashier's check, and then who knows what happened to  
12 it.

13 SECOND VOICE: Well, we know what happened  
14 to that particular cashier's check.

15 FIRST VOICE: What?

16 SECOND VOICE: We subsequently found out  
17 there was an on-going investigation. After McDougal  
18 put that \$30,000, he voted himself or Madison  
19 Financial gave him a \$30,000 bonus, based on the  
20 previous year's performance at Madison Financial --  
21 so he took that \$30,000 and he told Greg Young, who  
22 was the CFO at the time, to deposit it directly in

1 Whitewater's account, which he did.

2 At the time the deposit was made,  
3 Whitewater's account was overdrawn to the tune of  
4 almost \$28,000.

5 FIRST VOICE: Oh, okay.

6 SECOND VOICE: So where the \$28,000 had  
7 gone or what caused a \$28,000 overdraft in the  
8 account, was a check that had been written for a  
9 cashier's check to Madison Guarantee and that  
10 cashier's check for \$30,000 was made payable to Earth  
11 Movers -- excuse me -- it was made payable to -- it  
12 was endorsed by Earth Movers Inc. It was made  
13 payable to Earth Movers, Inc. and was endorsed by  
14 J.W. Fulbright and deposited to Riggs National Bank  
15 in Washington, D.C.

16 And that's what caused the overdraft. So  
17 McDougal had Madison Financial give him a bonus for  
18 \$30,000, which they put in to cover the overdraft.

19 FIRST VOICE: Well, I guess that I don't  
20 know, maybe, then --

21 SECOND VOICE: You want to know how to  
22 reserve for development time, then?

1 FIRST VOICE: When this -- this account  
2 must have been at Madison. I guess I'm confused when  
3 you say Madison Financial gave him a bonus, then is  
4 it appropriate to think that this entry in here is  
5 related to that, or maybe not?

6 SECOND VOICE: I don't think there's any  
7 relationship. There is this property, a piece of  
8 documentation, that I found in the files that  
9 belonged to Greg Young, who was the former CFO of  
10 both Madison Guarantee and Madison Financial. That's  
11 just a ledger sheet that -- reserve for development  
12 and it appeared that he had done them on some of the  
13 other Madison Financial developments in addition to  
14 Maple Creek Farms.

15 But that was the only place that I saw any  
16 tie to Whitewater development per se. And it made no  
17 sense to me, April, why they would zap Whitewater  
18 \$30,000 for an engineering survey on property that  
19 Whitewater had no technical or legal ties to that we  
20 could find.

21 FIRST VOICE: So, then, okay, you've  
22 already looked into this and, I went through the one

1 folder that was there and I didn't see any other  
2 Whitewater entries, so I'm assuming from what you're  
3 saying that that is it, in terms of those kinds of  
4 ledger sheets.

5 SECOND VOICE: Yes.

6 FIRST VOICE: It's that kind of crap that  
7 if, and I don't know if it gets us to an answer or  
8 not, because obviously this money could go into  
9 Whitewater and then money came out of Whitewater, so  
10 what you end up with net at the end is still a  
11 question mark.

12 I think, if they can say it honestly, the  
13 head people, Jack Ryan and Ellen Kulka would like to  
14 be able to say Whitewater did not -- Madison.

15 We don't know, you know, what Fiske is  
16 going to find and we don't offer any opinion on it.

17 But the problem is nobody has been able to  
18 say Ryan and Kulka -- if they say that, that's fine --  
19 because, you know, even though Whitewater did not  
20 have loan, -- it's been these kind of things that  
21 mean there was a loss that is hidden.

22 So this is okay.

---

1 I don't know if there's any other way to  
2 research whether -- and then I'm sorry to ask the  
3 same questions I'm sure that others have asked -- did  
4 Whitewater cause a loss to Madison, how we could get  
5 to a more definitive answer.

6 And I guess from the criminal rules, I've  
7 looked at them quickly, and I'm sure that you're much  
8 more into them, but my sense at the end is that, you  
9 know, more research is needed to trace the currency,  
10 so would you assume that the special prosecutor -- is  
11 probably out trying to trace it to Madison, or to  
12 Whitewater.

13 SECOND VOICE: Based on what Mr. Fiske has  
14 said to the press, -- that there is absolutely  
15 nothing. You and I have the same problem on that. I  
16 have no idea what he's doing.

17 All I know at this juncture is what the  
18 allegations were that I made in the criminal referral  
19 -- and that Whitewater development was part of a  
20 whole. There were 12 McDougal controlled entities,  
21 and I'm calling them McDougal controlled because I  
22 don't know how much control is exerted over any of



1 these other institutes by any of these other  
2 partners.

3 I know that money came in and out and went  
4 to various parties, Jim Smith, -- Tucker -- and it's  
5 real difficult to take Whitewater as one piece out of  
6 the whole. It's like trying to isolate one microbe  
7 out of an amoeba.

8 FIRST VOICE: That's a good point, that's  
9 a good point. And that's contrary to the way  
10 McDougal ran the bank. I mean, you know, he was  
11 purposely commingling all the time.

12 SECOND VOICE: I believe he was purposely  
13 commingling the funds. And I will tell you my  
14 assessment of the fact, based on the way Jim McDougal  
15 did business, there's a chronic overdraft situation  
16 that I've found to be absolutely pervasive throughout  
17 the entire institution, from small DBAs to huge  
18 accounts like Campobello or Madison Financial  
19 overdraft that's referenced in one of those criminal  
20 referrals for \$2.7 million.

21 It ran the gamut. He was absolutely  
22 indiscriminate about what he approved and what he

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10

1 didn't approve. He let checking accounts go into the  
2 red on a regular basis, including his own which was  
3 overdrawn at times by \$200,000.

4 So from that standpoint, I know that  
5 Whitewater, over a six month period, paid \$70,000 in  
6 checks, the large majority of them going to the bank  
7 for what appeared to be, if I am to believe a  
8 notation in the memo -- payments on real estate that  
9 the development purchased.

10 And if that's the case, then out of the  
11 \$70,000 worth of checks that were written in that  
12 six-month period of time, over \$60,000 of those  
13 checks were drawn on insufficient funds.

14 Now, if you can --

15 FIRST VOICE: Right. That's a loan,  
16 that's an unsecured loan.

17 SECOND VOICE: That's an unauthorized  
18 loan, that's absolutely right. So if you make an  
19 unauthorized loan like that, and that's a six month  
20 period, and so I had no way of knowing exactly what --  
21 two-year period of time.

22 And if I went back and looked at all the

1 available film we have on this, and we put the man  
2 hours into it that it would actually take, which is  
3 the reason that I confined my particular research to  
4 a six-month period, because it would have been  
5 counterproductive to do otherwise, if I did it for  
6 two years, I can almost promise you that the money  
7 coming in and out of that account, because of the  
8 activity that I saw in such a short period of time,  
9 would easily exceed \$100,000.

10 And it would consistently come out of an  
11 account that maintained a minimal balance. The  
12 entire time that I looked at it, -- checks came in  
13 every month for \$284 and that's it.

14 FIRST VOICE: Well, I wonder --

15 SECOND VOICE: If you want me to sit here  
16 and give you unequivocal answer to whether or not  
17 Whitewater caused the losses, I can't do it.

18 All I can tell you is what I found in the  
19 referrals and the allegations I have made that yes, I  
20 believe that Whitewater caused Madison a loss, just  
21 by virtue of the DBA account and the dollar amount of  
22 the unauthorized loans that McDougal approved going

---

1 out to his corporations and his business partners  
2 consequently.

3 FIRST VOICE: -- this came from you or  
4 came from -- that somebody now has the ending balance  
5 on Whitewater. Maybe that --

6 One thing that -- asked me to do, which I  
7 guess I'll give a shot at tomorrow, is to call the  
8 acquiring institution and confirm that did they  
9 assume responsibility for that account. You know, at  
10 this point, I'm thinking that if this turns out to be  
11 -- or if the special prosecutor already subpoenaed  
12 from them, if they won't tell me --

13 But they should be more cooperative with  
14 us given --

15 SECOND VOICE: You guys have an available  
16 resource that -- investigation doesn't have. For  
17 criminal purposes, this department cannot go -- we  
18 can't do that. In criminal, we have to go straight  
19 to the U.S. Attorney's office, and recommend to them  
20 what we think they need to subpoena -- investigation.

21 If we had that power (noise on tape)

22 -- I could have answered a hell of a lot

1 more questions -- but we don't. We refer it to the  
 2 appropriate authority and the appropriate authority  
 3 declined that referral under what I would believe to  
 4 be extremely questionable purposes.

5 FIRST VOICE: I don't know. I don't know  
 6 what to say.

7 SECOND VOICE: That was after the  
 8 election.

9 FIRST VOICE: First time.

10 SECOND VOICE: The first referral?

11 FIRST VOICE: Yes.

12 SECOND VOICE: Was declined in November of  
 13 last year after it had been submitted in September of  
 14 '92, declined in November of '92 --

15 FIRST VOICE: Oh, wait a minute. It was  
 16 submitted in September of '92 and declined in  
 17 November of '92.

18 SECOND VOICE: But again, I'll go back to  
 19 what I said, it's real hard to take Whitewater as one  
 20 piece of the pie out of the pie, so you don't get the  
 21 whole picture.

22 FIRST VOICE: That's true. I think that's

1 very true.

2 Well, as I say, -- I feel self-conscious  
 3 asking that. In some ways it's kind of a silly  
 4 question. They're looking for what they can say, and  
 5 I do believe they want to say something on it, but I  
 6 don't believe at all, and I don't want to suggest at  
 7 all, that they want us to reach a certain  
 8 conclusions. I really don't get that feeling.

9 But there are answers they would be  
 10 happier about, you know, because it would get them  
 11 off the hook. That would be about Whitewater.

12 So that's why we keep getting asked the  
 13 same things.

14 SECOND VOICE: I think I understand what  
 15 you're saying there, and I'll tell you what my  
 16 perspective is on it.

17 I -- don't produce whatever answers are  
 18 available.

19 FIRST VOICE: That's right, yes.

20 SECOND VOICE: And follow them up to  
 21 whoever needs them.

22 (Interruption.)

1           THIRD VOICE: I want two copies.

2           SECOND VOICE: As far as what would make  
3 them happier with a response, they would like to come  
4 back, I'm sure, with a politically correct response,  
5 but the bottom line to me is I don't know that  
6 they're going to be able to, and I'm not going to do  
7 anything to facilitate that.

8           FIRST VOICE: No, no, no. And I agree  
9 with that.

10          SECOND VOICE: And I'll tell you why I say  
11 that. Here is my logic in making that comment.

12          The loan payments that came out of the  
13 Whitewater account are -- funds. And I say private  
14 because all these other little companies consistently  
15 made deposits into the Whitewater account, whenever  
16 there was a need to make some kind of mortgage or  
17 real estate payment.

18          The funds that came into Madison out of  
19 these other little accounts, they don't exist. The  
20 other accounts were writing checks on funds they did  
21 not have. There was absolutely a kite. There was no  
22 doubt about it.

1          If you are in a real estate partnership  
2 with somebody and you've got \$200,000 some odd  
3 dollars in outstanding mortgages and bank notes that  
4 you've got to pay, and you're not making the monthly  
5 payments on them, and you are assuming your business  
6 partner is, and if you're not putting any money into  
7 this that can be documented anywhere, and I say this  
8 from the standpoint of all of these people  
9 collectively, Steve Smith, Jim -- Tucker, and Bill  
10 and Hilary Clinton.

11          You have to assume your business partner  
12 is making the payments for you and if he's making the  
13 payments for you, that is to your benefit if you are  
14 a partner in that corporation. And if you know his  
15 financial circumstances, you know his savings and  
16 loan is in trouble and insolvent, and you've been in  
17 business with him for a long time, as all these  
18 people had been, it's --

19          FIRST VOICE: Well, I don't know the  
20 insolvent thing. I mean, that's -- I can't accept --  
21 at what point you want to say that.

22          SECOND VOICE: I'm basing that on the



1 Federal Home Loan Bank exam. And according to --  
2 that the S&L is in deep, serious trouble in 1985  
3 cannot be disputed.

4 FIRST VOICE: That's true and I guess I  
5 can't accept that -- Bill Clinton had the federal  
6 exam, which is confidential and I mean --

7 SECOND VOICE: Oh, know. I'm not  
8 concluding that at all. I'm just saying that if your  
9 business partner is making loan payments to -- then  
10 you've got to question, excuse me, if those loan  
11 payments were being made, then you're assuming that  
12 your business partner's making them. And you know  
13 you're not putting money into it.

14 What's he doing, taking it out of his  
15 pocket? Because if it's your business venture,  
16 you've got to know what kind of cash flow is coming  
17 in and out of that business.

18 You can't tell me you're just walking away  
19 from it blind. I mean, these are business people.  
20 These people have an eye for detail. We're dealing  
21 with lawyers here. We are dealing with people like  
22 Jim -- Tucker and Hilary Clinton. They're attorneys.

1 They -- You don't turn a blind eye to your  
2 business investments.

3 And if you're not putting money in, you  
4 have to wonder where the money's coming from that's  
5 making your real estate payments.

6 FIRST VOICE: That's a fair point. That's  
7 a fair point.

8 SECOND VOICE: I think it's a very fair  
9 point. To that end I'm saying that funds that were  
10 kited out of that account showed the benefit of all  
11 the business partners involved, all twelve of those  
12 corporations, and I would not take Whitewater out of  
13 it and single it out.

14 I'd say, all those people, at some point,  
15 had to question where McDougal was getting the money  
16 to make the payments on all the mortgages in his  
17 bank.

18 FIRST VOICE: And I guess I mean, whether  
19 there was any chance that, from the point of view of  
20 these other partners who were not in it on a day to  
21 day basis, that they could have thought that the lots  
22 were selling and that there was some type of income

1 being generated from some of these projects. You and  
2 I know, at this point, the answer is no, you know,  
3 that all these projects were flops to one degree or  
4 another.

5 And McDougal knew that, there's no  
6 question about it. But whether all of these other  
7 partners would have known that, I don't know.

8 SECOND VOICE: If all of these other  
9 partners got into these investments and they saw that  
10 they were money losing ventures, if you know in 1982  
11 or 1983, say, that you've gotten yourself into what  
12 appears to be a money losing venture and you still  
13 have the overhead of this tremendous mortgage that  
14 you're having to pay, and your business partner's  
15 making the payments, because you're not really  
16 putting the money in, then the question becomes, if  
17 you knew it was losing money then, you knew it wasn't  
18 cash-flowing, so where was the money coming from to  
19 make the mortgage payments of \$7,000 to \$8,000 a  
20 month. Where was it coming from, and why didn't  
21 anybody ask?

22 And I think those are very legitimate

---

1 questions.

2 So can I say Whitewater didn't cause a  
3 loss, or  
4 -- land company didn't cause a loss, or any of the  
5 other entities that were combined partnerships of  
6 Tucker and McDougal and Smith and Clinton and/or any  
7 of the above.

8 No, I'm not prepared to say no, they  
9 didn't cause a loss, because I'm saying that if  
10 somebody actually sat down and researched that entire  
11 situation, start to finish, and took all the --  
12 accounts and accounted for every check that came in  
13 and out over a particular period of time --

14 (Interruption and discussion off the  
15 record.)

16 VOICE: What do you want, we're in the  
17 middle of a discussion. I know, I'm going to get her  
18 out of here shortly.

19 (Interruption and discussion off the  
20 record.)

21 SECOND VOICE: If anybody went back and  
22 actually researched that, check in and check out, on

1 every single solitary account, and then managed to do  
2 a cash flow analysis on it, all the way through  
3 Madison, and see where it stopped and how much money  
4 was actually lost out of these fabricated kited  
5 funds, you would wind up with hundreds of thousands  
6 of dollars in unauthorized loans that went out of  
7 there.

8 And I think realistically, if Mr. Fiske  
9 and his team actually found enough records to do  
10 that, and to reconstruct something like that, the  
11 conclusion they would come to is, yes, Whitewater  
12 Development, along with Madison Marketing, Pembroke  
13 Manor, Rolling Hills Manor, and every other company  
14 named in that referral caused a collective loss to  
15 Madison.

16 And the only way you can do that and break  
17 out Whitewater's individual loss is if you look at  
18 the whole and then you break them down one at a time  
19 when you've finished the project and you've tracked  
20 the flow of funds straight through the institution.  
21 Otherwise, you can't do it.

22 McDougal was in the habit of approving

---

1 overdrafts and I will tell you at one point, and I  
2 think I said this even in the referral, there was one  
3 overdraft charge on one Whitewater check when it came  
4 through, and it was recovered by Jim McDougal the  
5 next day.

6 (Laughter)

7 He rebated it.

8 FIRST VOICE: You know, the thing of it is  
9 -- I wondered at the time that McDougal was  
10 prosecuted the first time, if the reason that he was  
11 acquitted was that it was just too hard for the  
12 prosecutors to explain either those transactions in a  
13 way the jury, in a way they could meet the burden  
14 that you have to meet in a -- criminal case, beyond a  
15 reasonable doubt stuff -- the records have always  
16 been crap, and they are.

17 SECOND VOICE: The records have always  
18 been crap, but if I could go in and pull out enough  
19 information to construct what we've constructed in  
20 the series of criminal referrals, then I assure you  
21 those records, although they are crap, if you dig  
22 deep enough, there's information there, and you can

1 find it.

2 And what I was told by the FBI agents that  
3 worked the case the first time is the reason that the  
4 NUSAs who worked it -- is that they could not prove  
5 beyond a reasonable doubt how McDougal got the money  
6 out of the bank and where it went.

7 And they evidently didn't have the  
8 resources or the wherewithal or even sit down and  
9 look at all the little -- that were in that  
10 association.

11 And the way McDougal got the money out was  
12 by funneling it through Madison Financial into these  
13 various developments and through commissions and  
14 fees, and they tried to prove the commissions and  
15 fees in the first trial but it didn't fly.

16 FIRST VOICE: To come back to what you  
17 said before, which is to look at it as a whole, -- it  
18 may be that the only way to really prosecute this is  
19 to do it in a way that brings in the overall picture  
20 of the institution. I mean, to pull out one  
21 transaction or set of transactions -- maybe, I don't  
22 know.

---

24

1 SECOND VOICE: To pull out one  
2 transaction, one set of transactions in a situation  
3 like a check kite is self-defeating. They cannot do  
4 it, and for the press to go in, as it seems that  
5 they're doing -- and trying to totally isolate just  
6 Whitewater, that's just not fair because I will say  
7 this to you and anybody else that wants to hear it.

8 When this thing started out, when the  
9 investigation of Madison started out, and I found  
10 what looked to me to be the beginnings of the check  
11 kite through Pembroke Manor, Roland Manor -- Madison  
12 Marketing, -- writing checks to each other that says  
13 loan in the memo, that something smelled bad here.  
14 It is a standard investigation procedure to trace  
15 funds, to look at DBA accounts and if you find  
16 something questionable, you go for it.

17 Well, as I went through this, Whitewater  
18 came up and there it was, and so unfortunately it got  
19 pulled in. So the intent was not Whitewater, the  
20 intent was to investigate Madison Guarantee from a  
21 criminal standpoint since all the PLS claims had  
22 already been closed out.



-- litigations had already been tied up.

The -- going to do anything -- because from what I understand -- there were no assets.

So it is self-defeating to get into that kind of litigative process and that kind of expense when you know there's no return on the time.

FIRST VOICE: I think that's true.

SECOND VOICE: So it was all closed except criminal, and criminal went in, and this is what we found.

FIRST VOICE: I understand.

One thing I was curious about was I guess the criminal -- these are older institutions. I mean, I was there in '89 -- and they were over long too, and I don't know if they were that well organized to look at criminal things.

So did you guys just basically just start from the top and go back through all the institutions and look at criminal things?

I mean, one thing that's a little odd -- criminal look at Madison sort of was later than the PLS part -- and I guess I just don't --

SECOND VOICE: Well, just for the record, the -- Arkansas institutions originally I believe started out with Egan's office. They were transferred to Kansas City, who in turn transferred them to the Tulsa office.

The Tulsa office made me a job offer in the end of May of '91, and I started to work in July of '91 specifically for the purpose of handling or being the criminal coordinator for the Arkansas territory.

So at that point, I looked at all the Arkansas institutions that had failed and there were 18 of them. And in talking with my two bosses at that point in time, made the determination that although some of them had been examined by the U.S. Attorney, there was -- in Arkansas that had been looked at by the U.S. Attorney, they got one conviction, and that was the end of that, so there was no point in revisiting that one.

There was some others that the U.S. Attorney had looked at some referrals and said, no, we're going to decline those.

1 But I went back and looked at them and  
2 revisited them anyway, because I felt like it was my  
3 responsibility since because I didn't know what kind  
4 of work had been done on the rest of them.

5 And there was one I went back and  
6 revisited, First Federal Savings -- they had already  
7 submitted, OTS submitted three referrals and --  
8 turned them all three down.

9 I went in and investigated, I think it was  
10 nine more. They reopened the case, they investigated  
11 and they have just gotten their fourth conviction.

12 FIRST VOICE: Oh, good.

13 SECOND VOICE: So when I go in, I start at  
14 the top and I work my way down. And I had Madison  
15 targeted at a specific point in time to go in and do  
16 an investigation. And then there were circumstances  
17 that occurred within the Tulsa office after that  
18 article appeared -- in the New York Times.

19 FIRST VOICE: Yes. I wouldn't have  
20 remembered the reporter's name, but, yes.

21 SECOND VOICE: I remembered it because I  
22 kept seeing it in by-lines again and again on this

1 deal.

2 I was asked if I had investigated Madison  
3 yet and I said well this is what I've got it  
4 scheduled for, and then we made the decision, well,  
5 let's go ahead and move it up at that point. And it  
6 was no big deal because the other one that I was  
7 working on, I just kind of switched places with it,  
8 because I was just concluding the First Federal  
9 issue, and was through with that, and I was ready to  
10 start on a fresh investigation. And so we switched  
11 around.

12 -- I had it slated for investigation three  
13 months later anyway.

14 (Telephone interruption.)

15 (Discussion off the record.)

16 SECOND VOICE: Anyway, that's kind of the  
17 brief history.

18 FIRST VOICE: To make a list of things  
19 that are wild about this whole deal, but I mean, the  
20 frenzy of the press, and I think you read so many  
21 articles and you get one grain of a fact and you  
22 know, go way far, and you know, --

1 SECOND VOICE: Some of what I've read in  
2 the press has been outright laughable.

3 FIRST VOICE: And it's a business, like  
4 the editors are pounding the table, get me a story  
5 about this somehow, find another angle on this story,  
6 you know. There was one in the Post on Sunday, --  
7 the tax consequences of Whitewater.

8 I mean, under any normal circumstances,  
9 you know, how boring, but they have to find a story.

10 SECOND VOICE: Under any normal  
11 circumstances, I think the U.S. Attorney's office  
12 probably would have looked at the first referral I  
13 sent in and done exactly what they told me. And I  
14 can give you a direct quote from Matt Dodson, who  
15 used to be the lead attorney over there. That's an  
16 excellent case of check kiting and it's prosecutable.  
17 The problem is it's political. And that's what he  
18 told me. I got the same thing from the FBI. It's  
19 very prosecutable but, and that but comes with three  
20 little dots behind it.

21 FIRST VOICE: -- just that people, I  
22 mean --

1 SECOND VOICE: I don't know what actually  
2 transpired once the thing got to Justice. I don't  
3 know for a fact anything happened beyond that. All I  
4 know is that it took them a year and two months to  
5 respond back to me and tell me that they would  
6 decline that referral on the basis of insufficient  
7 information.

8 You saw the referral, April. You've seen  
9 the exhibits; that's not insufficient information.

10 FIRST VOICE: No, no.

11 SECOND VOICE: The problem is you've got  
12 to --

13 FIRST VOICE: Well, I don't know, I mean.  
14 (End of tape.)  
15  
16  
17  
18  
19  
20  
21  
22



RESOLUTION TRUST CORPORATION  
Resolving The Crisis  
Restoring The Confidence

October 8, 1993

Honorable Paula Jean Casey  
United States Attorney  
Eastern District of Arkansas  
Post Office Box 1229  
Little Rock, Arkansas 72203

SUBJECT: 7236/8313 Madison Guaranty Savings & Loan  
Little Rock, Arkansas  
Report of Apparent Crime RTC Log# 730CR0199

Dear Madam:

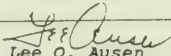
Madison Guaranty Savings & Loan, Little Rock, Arkansas, an insured savings and loan, was placed under conservatorship of the Resolution Trust Corporation.

Certain matters have come to our attention which may constitute criminal offenses under Federal law. Enclosed is a report of Apparent Criminal Irregularity.

Information in this referral may have been derived from financial records of customers of federally insured financial institutions. I hereby certify that (A) there is reason to believe that these records may be relevant to a violation of federal criminal law, and (B) the records were obtained in the exercise of the RTC's supervisory or regulatory functions.

Please direct inquiries to the contacts listed on the referral form or to my office.

Sincerely,

  
Lee O. Ausen  
Supervisory Investigator

CC: Donna Henneman  
Ethics Program Manager  
Executive Office for U.S. Attorneys  
Department of Justice, Washington, D.C.

Enclosure



**RTC**  
**Resolution Trust Corporation**

730 - Kansas City Office

**CRIMINAL REFERRAL FORM**

**CRIMINAL REFERRAL # 730CR0199**

**1. NAME AND LOCATION OF FINANCIAL INSTITUTION**

Name/#: MADISON GUARANTY SAVINGS & LOAN #7236  
 Location: 16TH AND MAIN  
 LITTLE ROCK, ARKANSAS 72206

**CERTIFICATE NUMBER:**

If activity occurred at branch office(s), please identify:

**2. ASSET SIZE OF FINANCIAL INSTITUTION: \$118,855,000**

**3. APPROXIMATE DATE AND DOLLAR AMOUNT (PRIOR TO ANY ALLOWANCE FOR RESTITUTION OR RECOVERY) OF SUSPECTED VIOLATION:**

Date: 1984 and 1985  
 Amount: \$390,000

**4. SUMMARY CHARACTERIZATION OF THE SUSPECTED VIOLATION. Check appropriate box(es)**

<input checked="" type="checkbox"/>	Defalcation/Embezzlement	<input type="checkbox"/>	Bribery/Gratuity	<input checked="" type="checkbox"/>	Check Fraud	<input type="checkbox"/>	Other
<input checked="" type="checkbox"/>	False Statement	<input checked="" type="checkbox"/>	Misuse of Position or Self Dealing	<input type="checkbox"/>	Credit Card Fraud	<input type="checkbox"/>	
<input type="checkbox"/>	Check Kiting	<input type="checkbox"/>	Mysterious Disappearance	<input type="checkbox"/>	Money Laundering	<input type="checkbox"/>	

**Applicable Section(s) of the U.S. Code:**

<input checked="" type="checkbox"/>	18 USC 2	Aiding & Abetting	<input type="checkbox"/>	18 USC 1030	Computer Fraud
<input type="checkbox"/>	18 USC 152	Concealment of Assets	<input type="checkbox"/>	18 USC 1341	Mail Fraud
<input type="checkbox"/>	18 USC 215	Bribery/Gratuity	<input type="checkbox"/>	18 USC 1343	Wire Fraud
<input checked="" type="checkbox"/>	18 USC 371	Conspiracy	<input checked="" type="checkbox"/>	18 USC 1344	Bank Fraud
<input checked="" type="checkbox"/>	18 USC 657	Defalcation/Embezzlement/Misuse of Position	<input type="checkbox"/>	18 USC 1621	Perjury
<input checked="" type="checkbox"/>	18 USC 1001	False Statement to Federal Agency	<input type="checkbox"/>	18 USC 1951	Racketeering
<input type="checkbox"/>	18 USC 1006	False Entry	<input type="checkbox"/>	18 USC 1956/1957	Money Laundering
<input checked="" type="checkbox"/>	18 USC 1007	False Statement/Document	<input type="checkbox"/>	18 USC 2113	Entering Financial Inst. w/Intent to Commit Felony
<input type="checkbox"/>	18 USC 1014	False Statement to Financial Institution	<input type="checkbox"/>	18 USC 2314	Transportation of Stolen Goods, Securities, Money
<input type="checkbox"/>	18 USC 1029	Credit Card Fraud	<input type="checkbox"/>		

**5. THIS MATTER IS BEING REFERRED TO:**

FBI, LITTLE ROCK, ARKANSAS  
 U.S. ATTORNEY, EASTERN DISTRICT, LITTLE ROCK, ARKANSAS

Madison Guaranty Savings & Loan  
Criminal Referral #730CR0199  
August 30, 1993 Page 2

6. PERSON(S) SUSPECTED OF CRIMINAL VIOLATION: Complete subparagraphs [a] through [e] on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME: JAMES B. McDOUGAL

ADDRESS: UNKNOWN

DATE OF BIRTH: 8/25/40

SOCIAL SECURITY NO: 431-74-5041

b. Relationship to the financial institution: (Check all applicable blocks)

<input checked="" type="checkbox"/>	Officer	<input type="checkbox"/>	Employee	<input type="checkbox"/>	Broker	<input checked="" type="checkbox"/>	Shareholder	<input type="checkbox"/>	Appraiser
<input checked="" type="checkbox"/>	Director	<input type="checkbox"/>	Agent	<input checked="" type="checkbox"/>	Borrower	<input checked="" type="checkbox"/>	Account Holder	<input checked="" type="checkbox"/>	Other: COB

c. Is person still affiliated with the financial institution:

☐ Yes ☒ No

If No, terminated ☐, resigned ☒. Date:

Describe circumstances: (If necessary, use continuation sheet)

McDougal resigned from the Board of Directors in December 1985; however he remained active in the Association's day to day business via his involvement in it's wholly owned subsidiary, Madison Financial Corporation. He was removed from any further affiliation with the Association by the Federal Home Loan Bank in July 1986.

d. Prior or related referrals:

☒ Yes ☐ No

If Yes, please identify.

McDougal was indicted, tried, and acquitted in 1989 on bank fraud charges stemming from the Castle Grande loan transaction funded by Madison Guaranty Savings & Loan. In addition, RTC Investigations has submitted the following criminal referrals naming McDougal as a suspect:

- 1) #C0004 submitted 9/1/92, alleging McDougal's involvement in an elaborate check kiting scheme perpetrated through various accounts at MGS&L.
- 2) #730CR0190 alleging McDougal's involvement in a scheme to divert loan proceeds for the benefit of Jlm Guy Tucker.
- 3) #730CR0192 alleging McDougal's participation with J.W. Fulbright in an alleged scheme to embezzle and/or kite funds through MGS&L accounts.
- 4) #730CR0193 alleging McDougal's abuse of position and conspiracy to defraud MGS&L of over \$8 million in funds channeled into and through it's subsidiary, Madison Financial Corporation.
- 5) #730CR0196 alleging McDougal's involvement in a conspiracy to divert loan proceeds for use as campaign contributions.
- 6) #730CR0198 alleging McDougal's misuse of position and conspiracy by participation in a land flip.

e. Is person affiliated with any other financial institution;

☒ Yes ☐ No

or business enterprise:

☒ Yes ☐ No

Madison Guaranty Savings & Loan  
Criminal Referral #730CRO199  
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If yes to either or both, please identify.

McDougal was a shareholder and Board Member of the Madison Bank & Trust, formerly the Bank of Kingston.

McDougal is a principal in the following business enterprises:

Madison Marketing  
McDougal & Associates  
Flowerwood Farms, Inc.  
Pembroke Manor, Inc.  
Great Southern Land Co.  
Smith-Tucker-McDougal  
Kings River Land Co.

Designers Construction  
Madison Financial Corporation  
White Water Development Corp., Inc.  
Rolling Manor, Inc.  
Tucker-Smith-McDougal  
Smith-McDougal  
Lion Oil Company

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Criminal Referral #730CRO199  
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6. PERSON(S) SUSPECTED OF CRIMINAL VIOLATION: Complete subparagraphs [a] through [e] on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

- a. NAME: Chris V. Wade  
ADDRESS: 100 Main Place,  
Flippin, Arkansas 72634  
DATE OF BIRTH: Unknown  
SOCIAL SECURITY NO: 467-68-3765
- b. Relationship to the financial institution: (Check all applicable blocks)

Officer	Employee	Broker	Shareholder	Appraiser
Director	X Agent	X Borrower	X Account Holder	Other Development Partner

- c. Is person still affiliated with the financial institution:  
\_\_\_\_ Yes X No

If No, terminated \_\_\_\_\_, resigned X. Date (Month/Day/Year):

Describe circumstances: Chris Wade sold his partnership interest in Campobello Development Company, a joint venture between Wade and Madison Financial Corporation, in July 1985.

- d. Prior or related referrals:  
\_\_\_\_ Yes X No

If Yes, please identify.

- e. Is person affiliated with any other financial institution;  
\_\_\_\_ Yes \_\_\_\_ No UNKNOWN

or business enterprise:

X Yes \_\_\_\_ No

If yes to either or both, please identify.

Chris Wade is a principal in the following companies:

Qzark Realty Company  
Qzark Air Service, Inc.  
Appraisal Associates, Inc.

Wade may also be a "silent" partner in other McDougal affiliated companies since he is mentioned in bank records in relation to some of the other developments and appears to be an intimate McDougal business associate.

006073



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6. PERSON(S) SUSPECTED OF CRIMINAL VIOLATION: Complete subparagraphs (a) through (e) on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME: Sheffield Nelson  
ADDRESS: Little Rock, Arkansas  
DATE OF BIRTH: Unknown  
SOCIAL SECURITY NO: Unknown

- b. Relationship to the financial institution: (Check all applicable blocks)

<input type="checkbox"/> Officer	<input type="checkbox"/> Employee	<input type="checkbox"/> Broker	<input type="checkbox"/> Shareholder	<input type="checkbox"/> Appraiser
<input type="checkbox"/> Director	<input type="checkbox"/> Agent	<input type="checkbox"/> Borrower	<input type="checkbox"/> Account Holder	<input checked="" type="checkbox"/> Other: Development Partner

- c. Is person still affiliated with the financial institution:  
\_\_\_\_ Yes   X   No  
If No, terminated \_\_\_\_\_, resigned   X  . Date (Month/Day/Year):  
Describe circumstances: Sheffield Nelson sold his partnership interest in Campobello Properties Venture to Madison Financial Corporation in 1988.
- d. Prior or related referrals:  
\_\_\_\_ Yes   X   No  
If Yes, please identify.
- e. Is person affiliated with any other financial institution:  
\_\_\_\_ Yes \_\_\_\_\_ No UNKNOWN  
or business enterprise:  
  X   Yes \_\_\_\_\_ No  
If yes to either or both, please identify.

Mr. Nelson was a partner in Head Harbour Holding Company, a partnership which, at one time, held 50% ownership interest in Campobello Properties Venture. He is also indicated to be a prominent Little Rock businessman.

000074

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6. ~~PERSON(S) SUSPECTED OF CRIMINAL VIOLATION~~ Complete subparagraphs (a) through (e) on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME: Jerry Jones  
ADDRESS: Little Rock, Arkansas  
DATE OF BIRTH: Unknown  
SOCIAL SECURITY NO: Unknown

- b. Relationship to the financial institution: (Check all applicable blocks)

<input type="checkbox"/>	Officer	<input type="checkbox"/>	Employee	<input type="checkbox"/>	Broker	<input type="checkbox"/>	Shareholder	<input type="checkbox"/>	Appraiser
<input type="checkbox"/>	Director	<input type="checkbox"/>	Agent	<input type="checkbox"/>	Borrower	<input type="checkbox"/>	Account Holder	X	Other: Development Partner

- c. Is person still affiliated with the financial institution:  
☐ Yes ☒ No

If No, terminated ☐, resigned ☒. Date (Month/Day/Year):

Describe circumstances: Jerry Jones sold his partnership interest in Campobello Properties Venture to Madison Financial Corporation in 1988.

- d. Prior or related referrals:  
☐ Yes ☒ No

If Yes, please identify.

- e. Is person affiliated with any other financial institution;  
☐ Yes ☐ No  
or business enterprise:  
☐ Yes ☐ No

If yes to either or both, please identify.

Mr. Jones was a partner in Head Harbour Holding Company, a partnership which at one time held 50% ownership interest in Campobello Properties Venture. He is also indicated to be a prominent Little Rock businessman.

006270

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6. PERSON(S) SUSPECTED OF CRIMINAL VIOLATION: Complete subparagraphs (a) through (e) on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME: Larry C. Wallace  
ADDRESS: Little Rock, Arkansas  
DATE OF BIRTH: Unknown  
SOCIAL SECURITY NO: Unknown

- b. Relationship to the financial institution: (Check all applicable blocks)

<input type="checkbox"/> Officer	<input type="checkbox"/> Employee	<input type="checkbox"/> Broker	<input type="checkbox"/> Shareholder	<input type="checkbox"/> Appraiser
<input type="checkbox"/> Director	<input type="checkbox"/> Agent	<input type="checkbox"/> Borrower	<input type="checkbox"/> Account Holder	<input checked="" type="checkbox"/> Other: Development Partner

- c. Is person still affiliated with the financial institution:  
☐ Yes ☒ No

If No, terminated ☐, resigned ☒. Date (Month/Day/Year):

Describe circumstances: Larry Wallace sold his partnership interest in Head Harbour Holding Company (50% partner in Campobello Properties Venture) in 1985 to Madison Financial Corporation.

- d. Prior or related referrals:  
☐ Yes ☒ No

If Yes, please identify.

- e. Is person affiliated with any other financial institution;  
☐ Yes ☐ No UNKNOWN

or business enterprise:  
☒ Yes ☐ No

If yes to either or both, please identify.

Mr. Wallace was a partner in Head Harbour Holding Company, a partnership which at one time held 50% ownership interest in Campobello Properties Venture. He is also indicated to be a prominent Little Rock businessman.

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6. PERSON(S) SUSPECTED OF CRIMINAL VIOLATION: Complete subparagraphs [a] through [e] on each individual suspected of criminal activity. (If more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspect criminal activity, but who are not themselves suspected of being involved, should be listed as witnesses under Item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME: John J. Flake  
ADDRESS: Little Rock, Arkansas  
DATE OF BIRTH: Unknown  
SOCIAL SECURITY NO: Unknown

- b. Relationship to the financial institution: (Check all applicable blocks)

Officer	Employee	Broker	Shareholder	Appraiser
Director	Agent	Borrower	Account Holder	X Other Development Partner

- c. Is person still affiliated with the financial institution:  
Yes ☒ No

If No, terminated \_\_\_\_\_, resigned ☒. Date (Month/Day/Year):

Describe circumstances: John Flake sold his partnership interest in Head Harbour Holding Company (50% partner in Campobello Properties Venture) in 1985 to Madison Financial Corporation.

- d. Prior or related referrals:  
Yes ☒ No

If Yes, please identify.

- e. Is person affiliated with any other financial institution;  
Yes \_\_\_\_\_ No UNKNOWN

or business enterprise:  
☒ Yes \_\_\_\_\_ No

If yes to either or both, please identify.

Mr. Flake was a partner in Head Harbour Holding Company, a partnership which at one time held 50% ownership interest in Campobello Properties Venture. He is the principal in Flake & Company, and possibly other Little Rock businesses.



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- 7a. EXPLANATION/DESCRIPTION OF SUSPECTED VIOLATION. Provide a brief narrative description of the activity giving rise to the referral, explaining what is unusual or irregular about the transaction. Details will be provided later in the form. The purpose of this paragraph is to provide a summary description of the overall transaction. (List applicable account numbers.)

In December, 1983 Chris V. Wade ("Wade"), individually, and James B. McDougal ("McDougal"), on behalf of Madison Financial Corporation ("MFC"), purchased approximately 3900 acres ("Campobello") on Campobello Island, New Brunswick, Canada, to develop resort properties. Wade and MFC initially established Campobello Development Company ("CDC") to develop the property, each allegedly having a 50% interest. The purchase price of the property was \$825,000. Although it appears that Madison Guaranty Savings & Loan ("MGS&L") initially financed 100% of Wade's interest in the partnership through a \$412,500 loan, it is conceivable that the loan was only intended to deceive the regulators since it was repaid in full through a purported sale of 50% interest in Campobello to Head Harbour Holding Company ("HHHC"). HHHC was a partnership consisting of Sheffield Nelson, Jerry Jones, Larry Wallace and John Flake as limited partners and Flake & Co. as general partner.

This referral alleges a conspiracy by McDougal and Wade, as well as the other partners, to deceive the Federal Home Loan Bank ("FHLB") and the Arkansas Savings & Loan Board. It is the contention of this referral that Wade and the other partners (Sheffield Nelson, Jerry Jones, Larry Wallace and John Flake) conspired with McDougal to create the appearance that they had an ownership interest in the development. MGS&L was subject to a 6% investment limitation in its service corporation, MFC. In order to circumvent this limitation, McDougal and Wade, and eventually the other partners, fabricated documents and acquired loan funds from MGS&L and Union National Bank for capital contributions. A 100% investment in Campobello by MFC would have required an additional investment by MGS&L in MFC, placing MGS&L in further violation of the 6% limitation. As noted in referral #730CR0195, regulators noted a violation of this limitation on 1/20/84.

In addition, this referral alleges that McDougal and Wade intended to procure fees and income for themselves and their family members and friends, entirely at the expense of MGS&L through MFC's ownership and development of this property.

In 1984 and 1985, Wade received approximately \$880,000 for his alleged interest in the development in the form of cash and debt forgiveness. As indicated above, Wade's \$412,500 loan, plus accrued interest (for a total of \$458,575.86), was paid from funds Campobello received through the alleged investment by HHHC on 10/5/84. It appears that Wade retained an interest in Campobello and allegedly made additional contributions totaling \$210,000. There is no evidence to indicate that MFC received back its initial \$412,500 investment as did Wade.

Nelson, Jones, Wallace and Flake allegedly invested in the project in 1984 through HHHC, a partnership they formed specifically to invest in Campobello. MGS&L records indicate McDougal proposed HHHC's investment in March 1984; however, the Joint Venture Agreement for Campobello Properties Venture ("CPV") is dated September 1, 1984. The validity of this document is questionable since verbiage in its "Schedule 1" attachment indicates that the additional capital contributions would be needed by August 1, 1984.

The funds HHHC contributed as capital, and which were used to repay the \$412,500 Wade loan, were borrowed from Union National Bank ("UNB"). MGS&L and MFC had a correspondent banking relationship with UNB, and Bob Wilson, an officer of UNB, became a consultant for Campobello at a fee of \$15,000 monthly in 1986, after his alleged retirement from the bank.

UNB funded the first installment of the HHHC line of credit on 6/29/84 by issuing check #401873 for \$150,000 to HHHC. HHHC endorsed the check "pay to the order of Campobello Properties Venture." The check was then endorsed by Chris Wade on behalf of CPV and deposited to CPV deposit account #7000081 at MGS&L the same day. Also on 6/29/84 CPV issued check TC#1 for \$100,000 payable to Chris Wade with the notation "Transfer to Campobello Acct." This check was endorsed by Wade and used to purchase cashiers check #Q1086 at MGS&L for \$100,000. The final disposition of this check has not been determined; however, it is likely that it was deposited to Wade's account and was a diversion of funds.

004578

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An MFC board of director resolution dated June 27, 1984, authorizing MFC management to execute a mortgage and note for \$150,000 in favor of HHHC, was located in records maintained by Special Investigative Counsel Jeffrey Gerrish, who had been hired in 1987 by the MGS&L board of directors to review transactions occurring during McDougal's control of the institution. No such note and mortgage have been located; therefore, it appears that the board resolution was an attempt by McDougal, Wade and HHHC to conceal the facts of the \$150,000 payment to Campobello from regulators, further concealing Wade's diversion of \$100,000.

On 9/14/84 HHHC made their \$450,000 capital contribution to CPV and the check was deposited to CPV account #70000081 at MGS&L. The CPV account had been overdrawn until this deposit brought the balance to \$411,435.08. On 10/5/84 CPV wrote check #203 for \$458,575.86 from MGS&L account #70000081 payable to MGS&L for "Chris Wade Note #1393" when the account contained insufficient funds to pay it. The check was force paid on 10/10/84 overdrawing the account balance to <\$68,675.03>.

In September 1984 McDougal wrote a memo to Wade and Larry Kuca (see following paragraph regarding Kuca) in which he says it is "now time to call upon Head Harboud for their additional \$100,000 contribution." It indicates that MFC will make its \$50,000 contribution and Wade would draw against commissions and development fees to make his \$50,000 contribution. McDougal states "This will give us sufficient capital to permit the reimbursement of the \$54,000 plus interest which CPV has borrowed from Wade. Wade will take this reimbursement and pay off his note at Madison Guaranty Savings and Loan." Wade's note was paid by check #277 for \$58,802.01 drawn on the CPV account on 12/6/84. When the check was written on 12/6/84 the CPV account was overdrawn. The check was force paid on 12/13/84 establishing an overdraft balance of <\$33,240.39>.

No documentation has been located that substantiates the existence of a loan from Wade to CPV, and no deposit for \$54,000 was made to the CPV accounts at MGS&L. Furthermore, sales of lots in this development were subject to provisions of the Interstate Land Sales Act (15 U.S.C. 1701 et. seq). Registration with the U.S. Department of Housing and Urban Development ("HUD"), under this act, did not take place until March 1985. There were no legal sales from which Wade could draw commissions or development fees; therefore, the draw is considered a diversion of funds by Wade and McDougal.

Larry Kuca, an attorney, was hired in late 1984 to assist Wade in the management of the development and to accomplish registration in compliance with the Interstate Land Sales Act. As previously stated, registration occurred in March 1985; however, records indicate that McDougal and Wade were fully aware of the requirements of this federal regulation in March 1984, but chose to willfully violate the filing and disclosure requirements of the Act by selling lots prior to HUD approval without proper disclosures being given to the buyers. Evidence of willful violation is indicated by the existence of a memo from Beverly Bassett, then a lawyer with the Mitchell, Williams, Selig, Jackson & Tucker law firm, to Jim Guy Tucker with the same firm. In this memo Ms. Bassett explains the requirements of the Act and the potential for both criminal and civil sanctions for violations of the Act. A note in the upper right hand corner of this memo says "send copy to McDougal." Further evidence that McDougal and Wade had extensive knowledge of the requirements of this regulation is indicated by the statements of services rendered, dated 3/31/84 and 4/30/84, from the Mitchell, Williams, Selig, Jackson & Tucker law firm. These were remitted to McDougal by Jim Guy Tucker with a cover letter dated May 4, 1984 and contain various entries indicating review and study of the act, as well as conferences with both McDougal and Wade.

The evidence supports the allegation that McDougal and Wade willfully violated the Interstate Land Sales Act and any sales made prior to the HUD registration and approval were illegal. Any commissions or development fees paid to Wade from these sales are considered a diversion of funds.

As previously reported in this referral, Wade allegedly made cash contributions totaling \$210,000. These contributions were financed by MGS&L through three different loans to Wade in the following increments: \$30,000; \$80,000; and \$100,000. In July 1985 MFC contracted with Wade to purchase his interest in Campobello for \$145,000 plus the assumption of his loans from MGS&L, the proceeds of which Wade used for his share of capital contributions. Also Wade agreed to assign to MFC all of the receivables due him from CPV for commissions and development fees, indicated to be \$66,631 at this time. According to MGS&L records, Wade had allegedly earned \$100,000 but had already been paid \$33,369.

END 070

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Although the agreement for MFC's purchase of Wade's interest in Campobello was signed in July 1985, MFC paid Wade \$75,000 on June 28, 1985 when MFC's MGS&L account #7000006 had an overdraft balance of <\$546,392.48>. The check (#2206) was force paid on 7/9/85 overdrawing the account to <\$626,904.55>. All of the additional \$326,387 paid to Wade, for this alleged buy-out, including the \$221,387 which repaid the above indicated Wade loans at MGS&L, was paid with checks drawn on an overdraft balance. After all of the checks paid to Wade were force paid, the overdraft balance of MGS&L account #7000006 was <\$1,322,775.85>. MFC's overdraft situation is further detailed in RTC criminal referral #730CR0195.

According to a memo written by Larry Kuca on 8/19/86 to Casco Northern Bank, the (illegal) 1984 sales (previously indicated to be \$802,500) were now stated at \$400,000 and the 1985 sales did not begin until mid-August, 1985. These remarks indicate commissions and development fees would have been due for only \$80,000, at 10% each as established by the original partnership agreement between Wade and MFC and the CPV Joint Venture Agreement. The records do not indicate the method used to arrive at the \$66,631 figure Wade claimed; however, it is irrelevant since Wade was paid \$180,000 in excess of his alleged capital contributions and was allowed to divert the previously indicated amounts.

At the same time as Wade's buy-out was taking place, McDougal was also discussing the buy-out of the alleged ownership interests of Larry Wallace and John Flake as evidenced by the "Agreement of Sale" documents signed by Wallace and Flake on June 2, 1985. Each was to receive \$225,000 (their initial contribution) plus accrued interest as of the date of closing.

On 12/5/85 a new "Agreement of Sale" was executed by MFC, as buyer, and Flake and Wallace, as sellers, whereby each would receive \$255,836.81. It was further agreed in the document that the funds would be immediately used to pay off their respective portions of the HHNC loan at UNB. Also at this time, on 12/4/85, CPV declared a capital distribution of \$52,104.30 for each 50% partner (MFC and HHNC). This was declared so that HHNC could pay off the MGS&L loan which Flake, Wallace, Nelson and Jones had used to purchase a Campobello lot for \$50,000. It appears that the intention was to pay each of the four HHNC partners an equal amount for their participation in the ongoing conspiracy.

Nelson and Jones remained as limited partners in Campobello, each retaining 12.5% ownership interest. Each sold his interest to MFC in 1988 claiming mismanagement by the former management of Campobello. Wade had left when his July 1985 buy-out occurred and Larry Kuca took over management responsibilities under the direction and control of McDougal. McDougal was removed from further management and control of MFC and MGS&L in July 1986 by the FHLB of Dallas at which time CPV account #7000081 was overdrawn by <\$1,471,916.24> indicating a substantial additional investment by MGS&L.

When McDougal was removed from control of MGS&L and MFC, the FHLB had conducted an examination of the institution. A Report of Examination dated March 4, 1986, contained an extensive overview of Campobello. The report identified major concerns and problems with this project which were similar to the problems and concerns of many other development projects of MFC. Of significant distress to the examiners was the large portion of expenditures made to McDougal, Wade and other McDougal family, friends and business associates. The examiners calculated that, of the \$3.7 million MGS&L and MFC had invested in Campobello as of 4/30/86, \$1.6 million was paid to this group, including \$774,000 to Wade, \$363,000 to Larry Kuca and \$243,000 to Madison Marketing. The magnitude of these payments further supports the allegation that McDougal, Wade, the other partners, and various other individuals conspired to deceive the regulators in order to line their pockets at the expense of Madison Guaranty Savings and Loan and its subsidiary, Madison Financial Corporation.



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7b. GIVE A CHRONOLOGICAL AND COMPLETE ACCOUNT OF THE SUSPECTED VIOLATION: (Use continuation sheet, if necessary.)

\* Relate key events to documents and attach copies of those documents

- 9/16/83 The minutes of the Board of Directors of MFC indicate approval of the purchase of one-half interest in 3,859 acres at Campobello Island, New Brunswick, the purchase price not to exceed \$800,000. The board also approved a joint venture with Chris V. Wade for the development of the Campobello Island property. (See exhibit 1)
- 10-17-83 Wade and McDougal became parties to a "Contract of Sale of Real Estate" (See exhibit 2) as purchasers for 3859 acres more or less on the Island of Campobello, New Brunswick, Canada. Dead River Limited of New Brunswick, Canada was seller. The purchase price was \$785,000 with an earnest money deposit of \$39,250. The purchasers also agreed to provide a letter of credit in the similar amount of \$39,250.
- 12/09/83 Wade and MFC entered a "Joint Venture Agreement of Campobello Development Company" (See exhibit 3) with each to hold a one-half undivided interest in the development. Wade was to act as general partner with MFC considered the limited partner. This agreement also provides for 50/50 sharing of profits and losses.
- 12/12/83 A promissory note for \$412,500 (See exhibit 4) was executed by Wade. The note indicated a "mortgage of even date." Although this is the date on the note, it is believed to have been actually signed on 1/14/84 (see the following regarding the mortgage). Funding of the purchase appears to have taken place on 1/16/84.
- 12/12/83 A mortgage (See exhibit 5), dated December 13, 1983 for \$412,500 to Madison Guaranty Savings & Loan ("MGS&L") secured by the Campobello property was executed by Wade. The affidavit attached to the mortgage, certifying that Wade is the mortgagor, was signed by Wade on 1/14/84 before David Walker. David Walker was the attorney with the Nicholson, Turner & Walker law firm who closed the purchase transaction for Wade and MFC in St. Stephen, New Brunswick, Canada. A Statement for Services Rendered from the Mitchell, Williams, Selig, Jackson & Tucker law offices (See exhibit 6) indicate that the Wade mortgage was drafted by that firm on 1/11/84. It appears that the mortgage was backdated when it was signed and that MFC probably paid the total purchase price at the time of closing. Please note that there was no MGS&L board approval for this loan.
- 12/13/83 A Statement of Adjustment (See exhibit 7) was executed indicating a purchase price of \$825,000 in U.S. funds.
- 12/31/83 MFC wrote check #66 (See exhibit 8) drawn on MGS&L account #7000006 for \$39,250.00 payable to Chris Wade. A note written on the check copy separates this total into two amounts for general ledger accounting entries: \$39,250.00 and \$709.72. Because of the time-frame and the amount, it appears that Wade was reimbursed for the \$39,250 down payment, although it has not been determined who actually paid it in the first place.
- 1/16/84 MFC wrote check #124 (See exhibit 9) drawn on MGS&L account #7000006 for \$373,250 payable to Madison Guaranty. It appears that MGS&L paid MFC's portion of the purchase price, so MFC had to repay MGS&L.
- 3/14/84 Beverly Bassett, then a lawyer with the Mitchell, Williams, Selig, Jackson & Tucker law firm, wrote a memo (See exhibit 10) to Jim Guy Tucker, of the same law firm, in which she details the requirements of the Interstate Land Sales Act. Within this memo, Ms. Bassett writes "...there is a significant risk that the 93 lots in Campobello Island Estates now being marketed are being sold in violation of the filing and disclosure requirements of the Act." Ms. Bassett explains the possibility of criminal sanctions and that "Evidence that the developer willfully violated the Act would have to be fairly strong. The only concern I have on this point is the fact that McDougal did not make a filing with the OILSR [Office of Interstate Lands Sales Registration] on Maple Creek Farms or on Gold Mine Springs, and, to the best of my knowledge, there was no exemption available for those developments....The failure to comply with the Act in connection with one



or two previous land development projects is some evidence that the failure once again to comply with the act was willful and not just a negligent oversight." This document contains a note written in the upper right-hand corner which reads, in part "send copy to McDougal."

3/20/84 McDougal wrote a memo (See exhibit 11) to Sheffield Nelson, et al, proposing that Nelson and his associates enter a joint venture agreement with Wade and MFC for the development of Campobello. McDougal asked for \$450,000 contribution for a one-half interest in the land and an additional \$150,000 operating capital. An additional contribution of \$100,000 would be needed by mid-July. Wade and MFC would contribute half the land and \$150,000 plus an additional \$100,000 by mid-July. For overseeing all aspects of development, Wade and MFC would receive a 10% sales commission and a 10% development fee. In his memo, McDougal said that it is "urgent that we permit him (Wade) to start immediately on the renovation of the Adams' Lodge which we are leasing from the provincial government of New Brunswick. We need to have this facility ready to accommodate our potential customers during the selling season this summer." The interesting fact is that the renovation was performed by Lisa Aunsbaugh, a McDougal affiliate, and Paula Sorensen, Susan McDougal's sister, at a cost of over \$100,000.

4/20/84 A letter of intent (See exhibit 12) was issued by Flake & Co., Inc. on behalf of Head Harbour Holding Company ("HHHC"), indicating HHHC's intention to enter into a joint venture general partnership with Campobello Development Company ("CDC") for the purpose of acquiring, owning, holding and developing the Campobello property. The terms of the joint venture agreement were to include: CDC's conveyance of the property to the joint venture; cash contributions of \$700,000 by each venturer (CDC and HHHC); \$900,000 of the cash contributions was to be immediately used to pay off existing debt on the property with the remaining \$500,000 available for use as working capital; and Wade was to assume the role of developer and devote substantially all of his time furthering the first phase of the development. He was to receive 10% commission on sales and a 10% development fee on developed inventory. The letter of intent further states that the Joint Venture Agreement, and the related agreements, "...shall be prepared by counsel to HHHC..." This document was only signed by Flake & Co., Inc.; the Agreed and Accepted section is not signed by Wade or McDougal. At this time, the only known debt secured by the Campobello property was the Wade note at MGS&L for \$412,500.

5/04/84 Jim Guy Tucker, of Mitchell, Williams, Selig, Jackson & Tucker, submitted a cover letter and "Statement of Services Rendered" (See exhibit 6) to McDougal. Services rendered included review and study of the Interstate Land Sales Act and conferences with Wade and McDougal regarding the Act. These services were rendered in February and March, 1984. In the cover letter Tucker made an interesting statement: "We're sending this now in the hopes it can be picked up as part of the sale of the 50% interest in Campobello."

5/07/84 The MFC Board of Directors minutes (See exhibit 13) indicate authorization for MFC to enter into a limited partnership with Chris Wade as general partner and MFC as limited partner. The board also authorized a contribution to the partnership by MFC of its interest in the Campobello property at its fair market value of \$450,000 and a cash contribution not to exceed \$150,000.

6/04/84 McDougal wrote a memo (See exhibit 14) to David McCreery regarding how to transfer the Campobello property from Wade and MFC to Campobello Properties Venture ("CPV"). He suggested that MFC and Wade deed their interest to CPV. CDC and HHHC should each make a \$600,000 contribution to CPV. Wade should then be reimbursed approximately \$440,000 plus accrued interest, with a like amount going to MFC for its investment. Another distribution should then be made to refund the \$25,000 contribution recently made by HHHC and a contribution of the same amount made by MFC.

6/05/84 File notes (See exhibit 15) indicate that Union National Bank issued a line of credit for \$900,000 to HHHC on 6/5/84. Four different disbursements were indicated to occur from 6/29/84 to 2/13/85. The first disbursement, dated 6/29/84, was for \$150,000. Subsequent disbursements occurred as follows: \$450,000 on 9/13/84; \$100,000 on 10/4/84; and \$200,000 on 2/13/85.

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- 6/27/84 A Resolution of the MFC Board of Directors (See exhibit 16) approves authorization of a mortgage and note in favor of HHHC for \$150,000. Board minutes were not located for this meeting; however, a copy of this resolution was located in Special Investigative Counsel's records.
- 6/29/84 Union National Bank issued check #401873 for \$150,000 (See exhibit 17) to HHHC as the first installment on the line of credit. That check was endorsed "pay to the order of Campobello Properties Venture" and deposited (See exhibit 18) to the CPV deposit account #7000081 at MGS&L the same day. Chris Wade endorsed the check on behalf of CPV. Again, the same day CPV issued check TC#1 for \$100,000 (See exhibit 19) payable to Chris Wade with the notation "Transfer to Campobello Acct." This check was endorsed by Chris Wade and used to purchase Cashiers Check #Q1086 (See exhibit 20) at MGS&L for \$100,000.
- 8/15/84 In a Memorandum of Action of The Board of Directors of MFC (See exhibit 21) the Board adopted a resolution authorizing McDougal to enter into an agreement of limited partnership in accordance with the general provisions of the proposed partnership agreement. The Memorandum of Action of the Board of Directors of MFC contained verbiage as follows: "Each of the members of the Board of Directors of the Corporation by signature below consents to the Board of Directors acting informally with respect to the action taken as stated above." Although this verbiage was present, there were no signature lines or signatures of any board members other than McDougal. It appears this was a document contrived to accommodate the transaction and probably was needed to again deceive the regulators.
- 9/01/84 A Joint Venture Agreement (See exhibit 22) was entered into by and between HHHC and CDC. CDC agreed to "convey all of the right, title and interest which CDC has in the property, free and clear of any liens, defects or encumbrances done or suffered by CDC or any of its partners except liens which will be promptly paid off and released out of funds derived from the initial capital contribution of the Venturers..." The agreement also states "Neither the conveyance of the Property nor the assignment of the Lease (as provided for in S1.5 above) will form any part of CDC's contribution of capital, both the conveyance and the assignment being made for other and independent consideration, viz., as an inducement to HHHC to enter into the Venture." HHHC and CDC were each to receive 50% of the profits. Provisions were made that gave each venturer the right to be repaid its capital contribution upon dissolution of the venture. No provisions were made for losses throughout the entire document. The agreement contains verbiage that "Each venturer has made available to the initial capital of the Venture cash or property (and agrees to make available the additional capital) in the amount or form indicated on Schedule "1" attached hereto and made a part hereof." Schedule 1 indicates capital contributed by each venturer of \$450,000 cash with each agreeing to additional contributions of \$150,000 "in such amounts (their contributions to be equal) and at such times as might be fixed by the Management Committee, it being anticipated that the total of \$300,000 to be so contributed will be needed between the date hereof and August 1, 1984. The Venturers further agree to contribute an additional \$100,000 (each) to capital, in cash, on or about August 1, 1984." These provisions clearly indicate that agreement was reached sometime prior to August 1, 1984 and the document itself probably was also prepared; however, the date of the agreement was left blank and then September 1 was handwritten in.
- 9/14/84 A \$450,000 deposit was made to CPV account #7000081 at MGS&L. This deposit brought the account from an overdraft balance of <\$38,564.92 to a balance \$411,435.08 (See exhibit 23). The deposit ticket (See exhibit 24) for this transaction indicates the check came from HHHC.
- 9/24/84 Jim McDougal wrote a memo (See exhibit 25) to Chris Wade and Larry Kuca (Kuca was hired in 1984 by CPV to handle various legal matters, particularly registration of the development with the U. S. Department of Housing and Urban Development ("HUD") under the Interstate Land Sales Act and with various state real estate agencies). The memo indicates that it is "now time to call upon Head Harbor for their additional \$100,000 contribution." It goes on to indicate that MFC will make their \$50,000 contribution and Wade would draw against commissions and development fees to make his \$50,000 contribution. The memo says "This will give us sufficient capital to permit the reimbursement of the \$54,000 plus interest

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which CPV has borrowed from Wade. Wade will take this reimbursement and pay off his note at Madison Guaranty Savings and Loan. (See exhibit 28). The existence of a loan from Wade to CPV has not been substantiated. No documentation has been located and no deposit for \$54,000 was made to the CPV accounts at MGS&L. Furthermore, sales of lots in this development were subject to provisions of the Interstate Land Sales Act (15 U.S.C. 1701 et. seq). Registration with the HUD, under this act, did not take place until March 1985.

- 10/05/84 Check #203 for \$458,575.86 (See exhibit 26) was drawn from CPV account #7000081 at MGS&L and was paid to Madison Guaranty Savings & Loan for Chris Wade Note #1393. When the check was written there were not sufficient funds to pay it. The check was force paid on 10/10/84 overdrawing the account balance to <\$68,675.03> (See exhibit 27).
- 12/06/84 Check #277 for \$58,802.01 (See exhibit 28) was drawn from CPV account #7000081 at MGS&L and was paid to Chris Wade for "#5917" (presumably the note referenced in exhibit 25). When this check was written the account was overdrawn by <\$38,700.46> and the check was force paid on 12/13/84 establishing an overdraft balance of <\$33,240.39> (See exhibit 29).
- 1/24/85 Larry E. Kuca wrote a memo (See exhibit 30) to HHHC regarding the status of Campobello Island in which he indicates that registration with HUD was not completed in 1984. He says "All of the necessary information has now been filed with HUD and I expect approval shortly. Once approved, we will be able to convert existing "Reservation Agreements" into binding contracts." Kuca also says "...it is necessary that we receive more operating capital. Head Harbour Holding Company had originally allocated \$900,000 for this purpose of which we have used \$700,000. We will now draw down the remaining \$200,000 which will, of course, be matched by Campobello Development Company."
- 5/02/85 Wade signed an Assignment of Partnership Interest (See exhibit 31) in which he assigns and grants a security interest in Campobello Development Company to MGS&L in consideration of all loans now or in the future made to him by MGS&L. The assignment indicates that "So long as Borrower complies with the provisions of the loans made by Secured Party to Borrower this assignment shall be of no force and effect." The bottom of the form contains a cancellation of the assignment dated July 16, 1985.
- 6/21/85 McDougal wrote a letter (See exhibit 32) to Wade indicating that "Subject to John's (John Latham, MGS&L President) checking with the Securities Department to see if we can do it, I think we could reimburse your investment in Campobello and pay you \$100,000.
- 6/28/85 MFC wrote check #2206 (See exhibit 33) to Chris Wade for \$75,000 as partial payment for Wade's interest in Campobello. When the check was written MFC account #7000006 had an overdraft balance of <\$546,392.48> (See exhibit 34). When the check cleared on 7/09/85 it overdraw the account balance to <\$826,904.55> (See exhibit 35).
- 7/08/85 Wade and MFC enter a Contract of Sale (See exhibit 36) agreement whereby MFC would purchase Wade's interest in CDC and CPV for the following consideration: \$145,000; assumption of those loans, including accrued interest, from MGS&L which were used by Wade for his share of capital contributions to CPV; seller assigns to buyer all of seller's receivables from and interest in CPV including \$66,631 owed by CPV; and various other insignificant amounts. The actual total dollars paid to Wade in July was \$401,387.
- 7/08/85 MFC wrote check #2213 (See exhibit 37) to Ozark Realty for \$16,455.06 drawn on MGS&L account #7000006 as part of the Wade buy-out. MFC wrote check #2214 (See exhibit 38) to Ozark Realty for \$18,544.94 as part of the Wade buy-out. When these checks were written account #7000006 had an overdraft balance of <\$550,610.87>. Check #2213 was deposited to Ozark Realty's account #331-1 at Citizens Bank and Trust Company and overdraw the MGS&L account to <\$841,216.38> when it cleared on 7/15/85. Check #2214 was endorsed by Chris Wade and overdraw the MGS&L account to <\$1,110,599.66> when it was force paid on 7/16/85. (See exhibit 35)



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- 7/10/85 John Latham wrote a memo (See exhibit 39) to Lisa McEntire directing her to pay off Wade's loans which were related to Campobello and increase the service corporation's investment in Campobello. The loans were \$30,000, \$100,000 and \$80,000.
- 7/12/85 John Latham wrote a memo (See exhibit 40) to McDougal listing the remaining issues to settle with Wade.
- 7/12/85 MFC wrote check #2229 (See exhibit 41), drawn on MGS&L account #7000006, to MGS&L for \$271,387.41 to payoff Wade's loans related to his investment in Campobello. The loans totaled \$210,000 plus accrued interest. When this check was written MGS&L account #7000006 already had an overdraft balance of <\$824,096.37> and when it was force paid on 7/15/85 the overdraft escalated to <\$1,062,603.79> (See exhibit 35).
- 7/26/85 MFC wrote check #2330 (See exhibit 42), drawn on MGS&L account #7000006, payable to Madison Guaranty S&L for \$26,416.88 as a further partial payment for Wade's interest in Campobello. The check was used to pay off two MGS&L loans in Wade's name (See exhibit 44). The same day, MFC wrote check #2331 (See exhibit 43), drawn on the same account, for \$43,583.12 payable to Chris Wade. When these checks were written MGS&L account #7000006 had an overdraft balance of <\$1,206,772.04>. Check #2331 cleared on 7/29/85 expanding the overdraft to <\$1,287,164.81>. Check #2330 was force paid on 7/30/85 establishing an overdraft balance of <\$1,322,775.85>. (See exhibit 35)
- 12/04/85 Larry Kuca wrote a memo (See exhibit 45) to HHHC regarding a declared partnership distribution. The distribution is intended to give both HHMC and MFC the equivalent of ten acres of land on Campobello Island. Flake, Wallace, Jones and Nelson, as Tenants in Common had purchased 10 acres for \$50,000 which was financed by MGS&L. This distribution was made to pay off the MGS&L loan (See exhibit 45). A like distribution was made to MFC also.
- 12/04/85 Larry Kuca wrote a memo (See exhibit 46) to Sheffield Nelson and Jerry Jones regarding the restructure of Campobello Properties Venture. The restructure was to be as follows: a partnership distribution is to be paid to HHMC, in effect, to pay off the loan on the 10 acres owned by the four individuals; MFC will acquire the interest of Flake and Wallace in HHHC for \$450,000 plus accrued interest to 12/5/85 to cover their financing at Union National Bank; dissolution of HHHC; and execution of a new joint venture agreement with MFC owning 75% interest as general partner and Nelson and Jones owning 25% interest as limited partners.
- 12/05/85 Two checks were issued by CPV from MGS&L account #7000081 for the partnership distributions. Check #709 (See exhibit 47) was paid to HHHC for \$52,104.30 and check #710 (See exhibit 48) was paid to MFC for \$52,104.30.
- 12/05/85 An Agreement of Sale (See exhibit 49) was executed by MFC, as buyer, and Flake & Wallace, as sellers, whereby MFC is purchasing their interest in HHHC for \$511,673.62. It was agreed that these funds would be used to pay off Flake's and Wallace's respective interest in the \$900,000 loan at Union National Bank. Attached to this document are two documents titled Agreement of Sale and dated June 1, 1985. One was executed by Wallace, the other by Flake, as sellers, and MFC was the buyer. The terms of these agreements are not detailed; however, the purchase price is indicated at \$225,000 plus accrued interest for each.
- 3/04/86 An Agreement (See exhibit 50) by and between MFC and the Wilson Co. was executed wherein MFC engaged Wilson & Co. to assist with the development of Campobello. Wilson & Co. was to coordinate all activities pertaining to planning, developing, engineering and implementation of all roads, buildings and recreational facilities to be constructed and make available the services of its President, Robert M. Wilson at least two hours a day, five days a week plus one full working week at Campobello. Wilson's compensation was to be 5% of the gross sales of Campobello for the year 1986 and \$15,000 each month as a consultation fee.
- 3/04/86 An examination, as of this date, was conducted by the Federal Home Loan Bank and a report was issued bearing this date. Two pages of this report (See exhibit 51) were devoted specifically to the Campobello project and indicated significant



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problems and concerns. The examiners indicated, that of the \$3.7 million invested by MGS&L and MFC as of 4/30/86, \$1.6 million was paid to McDougal and his family, friends and business associates, including \$774,000 to Wade, \$363,000 to Larry Kuca, and \$243,000 to Madison Marketing.

3/21/86 A Cancellation of Limited Partnership of Campobello Development Company (See exhibit 52) was filed in the Arkansas Secretary of State's office. The document was executed on 12/11/85 by Wade and McDougal.

7/19/86 Kuca wrote a letter (See exhibit 53) to Casco Northern Bank to which was attached a chronology of events for Campobello. Indicated in the chronology of events is the following statement: "The land sales registration was completed in May of 1985. This allowed 1984 sales of \$400,000 to be actually booked."

4/08/88 MGS&L submitted a letter (See exhibit 54) to James Jared, Supervisory Agent of the Federal Home Loan Bank of Dallas ("FHLB") seeking approval to increase the investment in MFC by purchasing the interests of Nelson and Jones in Campobello. MGS&L Senior Vice President Sarah Hawkins, the author of the letter, admitted that Nelson and Jones had valid claims against MFC for mismanagement of Campobello. Therefore, they were willing to accept 90% of their equity interest (calculated at \$810,613) in the project. Since MFC has no cash, it would be necessary for MGS&L to invest an additional \$725,000 in MFC to buy out Nelson and Jones.

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- \* Explain who benefitted, financially or otherwise, from the transaction, how much, and how.

McDougal, Wade, Nelson, Jones, Wallace, Flake, as well as family members, friends, employees and business associates benefitted financially through payment of fees, capital distributions or diversion of funds.

- \* Furnish any explanation of the transaction provided by the suspect and indicate to whom and when it was given.

The suspects have not provided any explanation of these transactions.

- \* Furnish any explanation of the transaction provided by any other person.

Explanations of some transactions were provided by various individuals in interviews conducted by Special Investigative Counsel Jeff Garrieh. Summaries of these interviews are contained in his report.

- \* Furnish any evidence of coverup by the suspect, or evidence of an attempt to deceive federal or state examiners or others.

Documents, included as exhibits to this referral, are believed to be contrived, falsified and backdated, and specifically intended to deceive the federal and state regulators.

- \* Indicate where the suspected violation took place (e.g., main office, branch, other).

The suspected violations occurred at the main office of Madison Financial Corporation, the Little Rock, Arkansas office of Campobello Properties Venture and possibly various other locations.

- \* Recommend any further investigation that might assist law enforcement in fully examining the potential violation.

RTC investigations does not have certain records which may be necessary to complete an investigation of these allegations. Other records in RTC's possession may also relate to these transactions and can be provided upon request.

It is recommended that records be obtained for Chris Wade's accounts at First American Savings, Yelleville, Arkansas and Citizens Bank and Trust Company. It is also recommended that any other deposit accounts for Wade be identified and the records obtained.

Records for the Head Harbour Holding Company loan at Union National Bank should be obtained to determine McDougal's role in that lending relationship.

Records pertaining to the legal work performed by the Mitchell, Williams, Selig, Jackson & Tucker law firm for Campobello Development Company, Campobello Properties Venture and Madison Financial Corporation should be obtained.

Additional records for Madison Guaranty Savings and Loan, Madison Financial Corporation and the Campobello companies which may be under the control of Central Bank & Trust, Little Rock, Arkansas may need to be acquired.

Records of ~~Special Investigative Counsel Jeffrey C. Garrieh, Garrieh & McCreary,~~ Memphis, Tennessee relating to Madison Financial Corporation may need to be obtained.

Flake & Co., Inc., Little Rock, Arkansas may have records relating to Head Harbour Holding Company.

David Walker, of Nicholson, Turner & Walker, St. Stephen, New Brunswick, Canada, has records relating to the Campobello development. Some of these records may pertain to this investigation since Walker closed the purchase transaction.

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- 7c. Indicate whether the suspected violation appears to be an isolated incident or whether it relates to other transactions. (Explain)
- No —  
No this violation is not isolated, but is one of many like instances which may have contributed to the failure of the institution.
8. EXCLUSION OF INFORMATION FROM THE REFERRAL:  
Has any pertinent information been excluded from this referral as a result of any legal or other restraint?  
— Yes — X No — If so, why?  
Have the excluded information or documents been segregated for later retrieval?  
— Yes — No — N/A
9. HAS SUSPECTED INDIVIDUAL(S) MADE ANY ADMISSIONS?  
— Yes — X No — If so, who?
10. WITNESSES:  
List any witnesses who might have information about the suspected violation and describe their position or employment. Indicate if they have been interviewed. (Use continuation sheet, if necessary.)

	NAME	POSITION	ADDRESS (CITY/STATE/ZIP)	TELEPHONE NUMBER	INTERVIEWED	
					YES	NO
1.	Larry E. Kuch	former CPV general manager	Little Rock, Arkansas	Unknown		X
2.	Mary A. (Kelly) Freeman	former CPV office manager	Little Rock, Arkansas	Unknown		X
3.	John Latham	former President- MGS&L	Little Rock, Arkansas	Unknown		X
4.	Jeffrey C. Gerrish	Attorney	700 Colonial Rd., Suite 200, Memphis, Tennessee	East (901) 767-0908	X	
5.	David C. Walker	Attorney	46 Milltown Blvd. P.O. Box 218 St. Stephen, New Brunswick, Canada E3LX1	(506) 466-2338		X
6.	Jim Guy Tucker	Attorney	Governor's Office, State Capitol Building, Little Rock, Arkansas	Unknown		X

11. DISCOVERY AND REPORTING:

- a. Who discovered the suspected violation and when?  
RTC Investigators in August, 1993
- b. Has the suspected violation been reported to the Board of Directors?  
— Yes — X No —  
By whom and when?
- c. Has the Board of Directors taken action?  
— Yes — No — N/A  
If so, what and when?
- d. Has the suspected violation previously been reported to federal or local law enforcement or to any federal or state supervisory agency?  
— Yes — X No —

If Yes, Agency:  
Agent:  
Address: (City/State)  
Telephone Number:

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## 12. LOSS:

- a. Amount of Loss known: \$ 390,000  
b. Restitution by:  
In the amount of: \$  
c. Name of Applicable Surety Bond Company:  
d. Amount of Bond: \$  
e. Amount of deductible: \$  
f. Was claim filed? Yes No  
g. Settlement by Surety Company: \$  
h. Total restitution and settlement to date: \$  
i. Net Loss: (After subtracting any amounts paid in the form of restitution or settlement) \$  
j. Is additional loss suspected? X Yes No  
(If yes, explain)  
Final disposition of the property has not taken place. Once an appraisal is received, RTC can determine any additional expected loss.  
k. Has the suspected violation had a material impact on, or otherwise affected, the financial soundness of the institution? If so, please explain.  
  
The business practices utilized for this property development as well as other developments by Madison Financial Corp. were the reason for Madison Guaranty Savings & Loan's failure.

## 13. OFFER OF ASSISTANCE:

The individuals listed below are/will be authorized to discuss this referral with appropriate law enforcement officials and to assist in locating or explaining any documents pertinent to this referral.

NAME	TELEPHONE NUMBER
Michael E. Caron/Senior Criminal Investigator/KCO	(816) 968-7191
L. Jean Lewis/Senior Criminal Investigator/KCO	(816) 968-7237
Lee Ausen/Supervisory Investigator/KCO	(816) 968-7243
L. Richard Iorio/Field Investigations Officer/KCO	(816) 968-7212

14. FORM PREPARED BY: Michael E. Caron  
Position: Senior Investigator  
Agency/Institution: Resolution Trust Corporation  
Telephone Number: (816) 968-7191  
Date: August 27, 1993

## 15. AUTHORIZATION FOR TRANSMITTAL:

Michael E. Caron 9/24/93  
Senior Investigator Date  
L. Jean Lewis 9/24/93  
Senior Investigator Date  
Lee Ausen 9/24/93  
Supervisory Investigator Date  
L. Richard Iorio 9-24-93  
Field Investigations Officer Date



United States Attorney  
Eastern District of Arkansas

Post Office Box 1229  
Little Rock, Arkansas 72203

October 27, 1993

Ms. L. Jean Lewis  
Criminal Investigator  
Resolution Trust Corporation  
4900 Main Street, Suite 200  
Kansas City, MO 64112

Re: #7236 Madison Guaranty Savings and Loan  
Criminal Referral Number C0004

Dear Ms. Lewis:

I am writing at the request of the Office of Legal Counsel, Executive Office for U.S. Attorneys of the U.S. Department of Justice to let you know the status of this referral.

As you know, this referral was reviewed by the Criminal Division of the U.S. Department of Justice at the request of the previous United States Attorney for the Eastern District of Arkansas. The matter was concluded before I began working in this office, and I was unaware that you had not been told until I was contacted by the Office of Legal Counsel. After receiving the call from Legal Counsel I reviewed the referral, and I concur with the opinion of the Department attorneys that there is insufficient information in the referral to sustain many of the allegations made by the investigators or to warrant the initiation of a criminal investigation.

Although I am declining to take further substantive action on this referral, my decision does not foreclose future prosecutions about the matters covered by the referral or related matters in the event that my office and the FBI are given access to records or information indicating that prosecutable cases can be made.

Sincerely,

*Paula J. Casey*

PAULA J. CASEY  
United States Attorney

cc: Debra Westbrook  
Office of Legal Counsel

FBI-00001006

KBK0000048



**DEPOSITION OF JANE C. SHERBURNE  
IN RE: S. RES. 120**

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**MONDAY, OCTOBER 30, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of JANE C. SHERBURNE, called for examination pursuant to notice of deposition, at 5:37 p.m. in the Dirksen Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.  
Majority Special Counsel  
MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
RICHARD BEN-VENISTE, Esq.  
Minority Special Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

STEPHEN SACHS, Esq.  
ROGER M. WITTEN, Esq.  
GAIL BERNSTEIN, Esq.  
Wilmer, Cutler & Pickering  
2445 M Street, NW  
Washington, DC 20037-1420  
On behalf of the Deponent.

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## 1 PROCEEDINGS

2 Whereupon,

3 JANE C. SHERBURNE

4 was called as a witness and having been duly sworn,  
5 testified as follows:6 MR. SACHS: Michael, let me just say one  
7 thing for the record very briefly. We are counsel  
8 here, myself, Mr. Witten and Ms. Bernstein for  
9 Ms. Sherburne. We represent her in her personal  
10 capacity.11 We represent her personally. We are aware  
12 there have been conversations between the White House  
13 Counsel's Office and your staff with respect to  
14 privileges and agreements have been reached.15 We simply want to state we are not  
16 privy -- we are not authorized on behalf of the White  
17 House to waive any privileges. Ms. Sherburne expects  
18 to become forthcoming, and we expect to be liberal in  
19 the interpretation of any such privileges, but you  
20 should understand that nothing she says should be  
21 construed as waiving any privileges or change any  
22 agreements that have already been made.

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4

1 That's all.

2 MR. CHERTOFF: Okay.

## 3 EXAMINATION

4 BY MR. CHERTOFF:

5 Q Ms. Sherburne, let me just give you some  
6 preliminary observations about the nature of the  
7 proceeding.8 As you know, this deposition is conducted  
9 pursuant to Senate Resolution 120 which established a  
10 special committee to conduct an investigation into  
11 Whitewater Development Corporation and other related  
12 matters.13 One element of that resolution specifically  
14 directs that we examine the handling of an OGE  
15 investigation and certain transcripts generated in  
16 the course of that investigation which took place  
17 during the summer of 1994, and that's going to be the  
18 focus of today's deposition.19 The deposition is in advance of a public  
20 hearing which I anticipate will begin next week, and  
21 there's a high likelihood that you will be called to  
22 testify next week. We'll give you an actual

1 notification of the date probably within 48 hours I  
2 would think --

3 MR. SACHS: Within 48 hours of?

4 MR. CHERTOFF: Of now.

5 MR. SACHS: Okay.

6 BY MR. CHERTOFF:

7 Q Certainly by the end of the week. The  
8 deposition itself will be held committee confidential  
9 until the hearing at the point that the hearing  
10 begins some or all the deposition may become public,  
11 and I would think that at some point down the road,  
12 all of it will become public record.

13 As you know from your experience, it's  
14 going to proceed by way of me asking you a series of  
15 questions which you'll have to answer under oath. If  
16 you don't understand a question, please let me know  
17 and I'll rephrase the question.

18 If you need a break, let me know. If you  
19 need to consult with your lawyer, let me know. We're  
20 going to ask that you -- let me withdraw the  
21 question -- the statement.

22 You're going to get an opportunity to

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1 review your deposition shortly before the hearing,  
2 really probably within a matter of days, because it's  
3 going to be contingent upon the transcript being  
4 prepared.

5 The purpose of the review will be to allow  
6 you to make changes or corrections. I should advise  
7 you if you make corrections that are substantive  
8 or merely clerical and ministerial, those corrections  
9 should themselves become the basis of further  
10 deposition.

11 We will notify you when the depositions are  
12 available, you can come to the Senate and make the  
13 changes. If you are to testify, about four days  
14 before you testify, you will receive a copy of your  
15 deposition on the condition that you agree to keep it  
16 to yourself and your counsel and not to disseminate  
17 it outside of that group, and that's for purposes of  
18 allowing you to prepare for the deposition.

19 You can -- obviously, you're represented by  
20 counsel here, Mr. Sachs has identified himself, and  
21 other counsel. There may be objections from your  
22 counsel or other counsel here to the form of

1 questions; as you know, let us put these things on  
2 the record and then you can proceed to answer.

3 There are two grounds on which someone  
4 might object or instruct you not to answer; one is on  
5 the ground of privilege, and one is on the ground of  
6 the scope of the resolution. If an objection under  
7 either of those categories is raised, please wait  
8 until we finish our effort to resolve it. If it  
9 isn't resolved, you can proceed accordingly.

10 If it's not resolved, we'll hold it in  
11 abeyance and you should not answer until such time  
12 until we take it to the chairman of the committee who  
13 has the final say on what is to be answered and  
14 what's not to be answered.

15 Is there anything about what I observed to  
16 you up to this point in time that you want to ask me  
17 about?

18 A No.

19 Q Now, would you tell us where you currently  
20 work?

21 A I currently work at the White House.

22 Q What's your position?

1 A Special counsel to the President.

2 Q How long have you held that position?

3 A Since January 4th, 1995.

4

5

6

7

8 Q When did you graduate from law school?

9 A 1983.

10 Q And where have you worked since law school?

11 A I've worked immediately following law  
12 school at the law firm of Wilmer, Cutler and  
13 Pickering, and the only other place I've worked since  
14 that time was the White House.

15 Q Now, when did you first come to work at the  
16 White House?

17 A I initially came to work at the White House  
18 in April of '94 as a special government employee with  
19 Lloyd Cutler, and that service continued through  
20 October of '94.

21 Q What was your position in 1994?

22 A Special associate counsel to the

1 President.

2 Q And then you returned in January 1995?

3 A That's correct.

4 Q And what was your position at that time?

5 A Special counsel to the President.

6 Q Now, how did you come to be employed with  
7 Mr. Cutler in April of '94?

8 A Well, as you know, in March of '94,  
9 Mr. Cutler was named special counsel to the President  
10 to take over for Mr. Nussbaum, and at that time, he  
11 anticipated that he would need help conducting an  
12 internal review that the President had asked him to  
13 undertake related to the White House Treasury  
14 contacts.

15 He also anticipated that there would be  
16 Congressional hearings on that subject, and spoke to  
17 me about helping him.

18 Q When did you actually -- do you recall the  
19 exact date you joined the White House?

20 A I think -- I think it was the second week  
21 maybe in April or the third week in April.

22 Q In anticipation of this deposition, have

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10

1 you spoken with anybody about the subject of this  
2 deposition other than your personal counsel?

3 A Well, about the subject of the deposition?

4 Q Yes.

5 A I've certainly had conversations with  
6 others in the White House with whom I'm working in  
7 connection with the hearings as a general matter.

8 Q About the -- about the subject of your  
9 deposition?

10 A About the subject of B(2)(e) of the  
11 resolution in a context of the whole resolution, but  
12 not -- I'm -- I'm not sure how to answer your  
13 question given the nature of the work I do.

14 Q Well, let me ask you if you could tell us  
15 with whom you've had the discussions?

16 MR. SACHS: Discussions about what, I  
17 think --

18 MR. CHERTOFF: About the subject matter of  
19 Ms. Sherburne's deposition here.

20 MR. SACHS: Well, let me just try to be  
21 helpful. The deposition hasn't happened yet, and  
22 she's been called to testify presumably about this



1 portion of the resolution, and if your question is  
2 conversation -- who has she discussed the B -- the  
3 stuff related in B (2)(e) with, we understand that  
4 question and she can answer that.

5 BY MR. CHERTOFF:

6 Q With that understanding, with whom have you  
7 discussed the subject matter?

8 A I'm sorry. I still don't -- I'm still not  
9 sure how to answer the question. I certainly have  
10 talked about the fact of the deposition and matters  
11 related to B (2)(e) with the people who I work with  
12 at the White House.

13 Q And who would those people be?

14 A It would be White House counsel, Ed  
15 Mcville, it would be David Fine, it would be Ira  
16 Fishman, it would be Mark Fabanio, Mariam Nemitz.

17 Q Anybody else?

18 A It's possible that there have been others.

19 Q Have you spoken with Mr. Cutler about it?

20 A About the subject matter of this  
21 deposition?

22 Q Yes.

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12

1 A At any time?

2 Q Yes, since -- since August 5th, 1994.

3 A Yes.

4 Q On which occasions?

5 A I couldn't possibly identify the  
6 occasions. Mr. Cutler and I speak frequently on a  
7 number of subjects, I'm sure from the time this  
8 subject was contemplated as a matter in the  
9 resolution or even following August 5th when there  
10 were questions that came to Mr. Cutler about matters  
11 that are now covered by B (2)(e), I would have had  
12 conversations with him. I would have had --

13 Q All right. Let me do it this way. Since  
14 May of this year when the resolution, Senate  
15 Resolution 120 was passed, have you had conversations  
16 with Mr. Cutler about the subject matter of the  
17 Inspector's General investigation or the OGE reports?

18 A Yes.

19 Q How many conversations have you had with  
20 him about it?

21 A Several.

22 Q What has been the nature of your

1 conversations?

2 MR. SACHS: Well, I'm going to instruct  
3 her -- let me make a statement and then make an  
4 instruction to the witness.

5 Counsel present here represented  
6 Ms. Sherburne and Mr. Cutler and others in the course  
7 of an inquiry being conducted by the independent  
8 counsel which touches precisely these issues as I'm  
9 sure you know.

10 In the course of counsel's representation  
11 of those witnesses and in the course of preparing  
12 those witnesses to testify, we met with our clients  
13 from time to time and some of the meetings that  
14 Ms. Sherburne had back then were in the course of  
15 consultation with counsel along with other clients of  
16 counsel.

17 I'm going to instruct her not to describe  
18 those conversations, any other conversations she may  
19 have had, she's certainly entitled to testify.

20 BY MR. CHERTOFF:

21 Q With respect to the conversations that  
22 occurred in the presence of Mr. Sachs or Mr. Witten

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14

1 or other counsel, did you have conversations -- don't  
2 tell me what they are, but did you have conversations  
3 with Mr. Cutler in the presence of your counsel?

4 MR. BEN-VENISTE: I have to note an  
5 objection to this, because it seems like we are in  
6 the Versailles of all of the mirrors. We're talking  
7 about an investigation and then the investigation of  
8 the investigation and now the investigation of the  
9 investigation of the investigation.

10 MR. CHERTOFF: Is that a recognized  
11 objection, because I've never heard it before?

12 MR. BEN-VENISTE: It's the Versailles  
13 objection.

14 BY MR. CHERTOFF:

15 Q Now, you can answer the question.

16 MR. BEN-VENISTE: I don't think it's  
17 appropriate to be disclosing all of this stuff when  
18 there is obviously something of substance that you  
19 would like to ask about at some point that relates to  
20 the initial investigation by White House Counsel's  
21 Office.

22 If we're going to get into issues of

1 attorney-client privilege, work product, protected  
2 conversations, Mike, it's going to take us all year.

3 MR. CHERTOFF: Okay. Can we get an answer  
4 to the question?

5 THE WITNESS: The question was whether I  
6 had met with Mr. Cutler in the presence of --

7 BY MR. CHERTOFF:

8 Q Your attorneys.

9 A Yes.

10 Q Is Mr. Cutler represented by your attorneys  
11 as well?

12 A Yes, he is.

13 Q Did you have conversations with Mr. Cutler  
14 outside the presence of your attorneys --

15 A Yes.

16 Q -- about the subject matter?

17 MR. SACHS: Starting with dates?

18 MR. CHERTOFF: Starting from May 1995.

19 MR. SACHS: Okay.

20 THE WITNESS: Yes.

21 BY MR. CHERTOFF:

22 Q What was the nature of those conversations?

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16

1 A May 1995 is the resolution, is that what  
2 we're pegging this to?

3 Q That's correct.

4 A Then we probably talked about the  
5 resolution -- I don't remember specifically what we  
6 would have talked about in those conversations.

7 Q Have you spoken to Mr. Cutler outside the  
8 presence of your attorneys since you've been notified  
9 about having to appear at the deposition?

10 MR. SACHS: This deposition?

11 MR. CHERTOFF: This one, yes.

12 THE WITNESS: On this subject?

13 BY MR. CHERTOFF:

14 Q On this subject.

15 A No.

16 Q Now, when you came to work at the White  
17 House in April of 1994, to whom were you --

18 MR. SACHS: Excuse me, Mike, I just want to  
19 make one observation that I think is relevant, you  
20 have not asked her whether she discussed the subject  
21 of this resolution with Mr. Cutler since  
22 note -- being notified about this deposition in the

1 presence of counsel --

2 MR. CHERTOFF: That's correct.

3 MR. SACHS: -- the answer to that question,  
4 if you had asked it, would be no.

5 BY MR. CHERTOFF:

6 Q In April 1994, when you came to work at the  
7 White House, to whom did you report?

8 A Lloyd Cutler.

9 Q And was there a group of individuals who  
10 were designated within the White House Counsel's  
11 Office to work on issues relating to the upcoming  
12 hearings in the summer of 1994?

13 A Well, I was certainly designated to work on  
14 those issues as was my colleague, Sheila Cheston.  
15 There were a few other people that we had working  
16 with us, and then there were others in the White  
17 House who were involved with us in the effort but not  
18 exclusively, it wasn't their exclusive role.

19 Q Now, who were the people within the White  
20 House Counsel's Office who had responsibility for  
21 dealing with either the upcoming Congressional  
22 hearings or the ongoing OGE Inspector General

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1 investigation?

2 A That would have been principally Lloyd  
3 Cutler, myself and Sheila Cheston, and then we had  
4 additional people who worked with us. But it would  
5 have been the three of us who were principally  
6 responsible.

7 Q Who were the additional people?

8 A A woman named Sharon Conoway who was a  
9 former Wilmer, Cutler and Pickering associate who was  
10 at the State Department we detailed over, a paralegal  
11 named Sean Johnston, who was a -- I think her title  
12 or rank was master sergeant who had worked with  
13 Ms. Cheston in the Air Force.

14 And then there were others in the White  
15 House who participated on an ad hoc basis in  
16 assisting us in preparing for hearings primarily.

17 Q I'm focusing just on the White House  
18 Counsel's Office.

19 Apart from yourself, Mr. Cutler,  
20 Ms. Chester, Ms. Johnston and Ms. Conoway, was there  
21 anybody else within the White House Counsel's Office  
22 either permanently or on detail or as a special



1 government employee who was involved in working with  
2 you in connection with the investigations going on  
3 into the -- anything related to Whitewater?

4 A I would say that Joel Klein had sort of a  
5 tangential relationship to the work we were doing.  
6 And when the hearings were at one point still going  
7 to cover Foster documents in the summer of '94, Neil  
8 Eggelston was assisting in a very peripheral way on  
9 that aspect. But other than -- other than those  
10 possible additions, I don't believe there was anyone  
11 else.

12 Q When you came into the -- into the White  
13 House in April 1994, was your understanding that your  
14 principal responsibility would be to participate in  
15 this internal review?

16 A Yes.

17 Q At the time you came in, was any mechanism  
18 set up within the White House Counsel's Office to  
19 separate those people conducting the internal review  
20 from any members of the White House Counsel's Office  
21 whose activities were going to be reviewed?

22 A Any formal mechanism?

1 Q Yes.

2 A No.

3 Q Did you understand when you came in April  
4 1994 that Mr. Eggelston, for example, was going to  
5 have his conduct reviewed?

6 A I don't know if I understood that in April,  
7 because it took us a while to learn the facts, but  
8 there came a time certainly within a few months that  
9 I understood that Mr. Eggelston was a participant in  
10 the events that we would be reviewing.

11 Q Did you understand when you came in 1994,  
12 April, that one of the issues that would be reviewed  
13 was the pattern of Treasury White House contacts, if  
14 any, regarding Whitewater/Madison?

15 A I'm not sure what you mean by pattern.

16 Q I'll withdraw the question.

17 When you came in April of 1994, did you  
18 understand one of the issues to be examined in the  
19 internal review was contacts between personnel at  
20 treasury and personnel at the White House regarding  
21 the subject of Madison Guaranty?

22 A Yes.

1 Q Did you know that the office within the  
2 White House -- withdrawn.

3 Did you know that one of the offices within  
4 the White House in which those contacts allegedly  
5 occurred was the White House Counsel's Office?

6 A Well, one of the offices in the White  
7 House, I'm not sure that I knew that. I certainly  
8 knew that Bernie Nussbaum was involved in the  
9 contacts and he was the counsel of the President, so  
10 to that extent, I was aware that members of the  
11 counsel's office, principally Mr. Nussbaum, had been  
12 involved in the contacts that we would be reviewing.

13 Q Did it seem to you in April 1994 that  
14 members of the White House Counsel's Office who had  
15 been in that office during the fall and winter of  
16 1993/1994 might be witnesses that you would need to  
17 talk to?

18 A I don't think I knew that when I came in  
19 April.

20 Q Now, when you came in April 1994, what was  
21 your understanding of who had ordered this internal  
22 review?

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22

1 A I understood that the-then chief of staff,  
2 Mac McCarty, had specifically asked Mr. Cutler to  
3 contact, review and in subsequent conversations,  
4 Mr. Cutler had with the President, the President had  
5 affirmed Mr. McCarty's request.

6 Q When was that request made?

7 A I don't know.

8 Q What was the purpose of the review as you  
9 understood it?

10 A The purpose of the review was to determine  
11 the truth, it was to identify and understand what  
12 contacts had occurred and determine whether any of  
13 the contacts violated any standards of contact or  
14 there was any other wrongful behavior that was  
15 implicated by the nature of the contacts.

16 It was also to examine whether the policies  
17 in place in the White House governing the kinds of  
18 contacts that White House officials could have with  
19 agencies related to an ongoing investigation were  
20 sufficiently understood and communicated to White  
21 House officials and if those internal policies needed  
22 to be improved.

1 Q What was your understanding of what this  
2 internal review was going to produce at the end?

3 A My understanding was that given -- given  
4 the time horizon we were dealing with that the  
5 internal review would produce Congressional  
6 testimony, that it would be in the form of a -- that  
7 the report to the President would be in the form of  
8 Congressional testimony or would be in a form where  
9 it could be presented to Congress.

10 Q So when you came in April 1994, your  
11 understanding was that the internal review would lead  
12 to the preparation of Congressional testimony that  
13 would be given by Mr. Cutler?

14 A Yes.

15 Q Did you -- was there any discussion in  
16 April 1994 of preparing a confidential report for the  
17 President?

18 A A confidential report for the President?

19 Q Yes.

20 A Not that I recall.

21 Q Am I correct in understanding your  
22 testimony to be that in April 1994 one of the

1 purposes of the internal review was to determine  
2 whether there was wrongdoing by anybody in the White  
3 House?

4 A Yes.

5 Q Was there discussion about how you would  
6 handle the matter if wrongdoing were, in fact, found?

7 MR. SACHS: Discussion among?

8 THE WITNESS: Discussion among?

9 BY MR. CHERTOFF:

10 Q A discussion among yourself and Mr. Cutler  
11 and the other persons working in the White House  
12 Counsel's Office.

13 A Sure.

14 Q And what was the discussion?

15 A Well, I don't remember any specific  
16 discussion. I remember thinking about it myself and  
17 developing a proposal that I reviewed with Mr. Cutler  
18 that if we found conduct that we thought violated  
19 ethical standards or something more serious, that we  
20 would go through a process where we would develop  
21 recommendations that we would make to the President,  
22 that we would make any individual whose contact had



1 come under that kind of scrutiny aware of the fact  
2 that we were reaching adverse conclusions and  
3 prepared to make recommendations to the President  
4 about that conduct and give them an opportunity to  
5 come back at us and tell us why we were wrong or  
6 what -- what -- whether there were any additional  
7 facts or issues that we had overlooked that ought to  
8 be considered before we took the step of making such  
9 recommendations.

10 And then make the recommendations to make  
11 them orally and --

12 Q Make them orally to whom?

13 A To the President.

14 Q Was that -- did you anticipate in thinking  
15 through this possibility that if you determined that  
16 there was wrongdoing that the identity of the  
17 wrongdoings would be included in the report to  
18 Congress?

19 A Absolutely.

20 Q And --

21 MR. SACHS: Mike, let me make an  
22 observation, this is not an instruction to the

1 witness not to answer. But I do think the record  
2 ought to reflect that these questions are -- I don't  
3 see that these questions are within the scope of the  
4 resolution.

5 I do understand, though, however, to be  
6 background for questions that will address the scope  
7 of the resolution which is essentially the OGE  
8 investigation and any potential abuse of it as well  
9 as the use of transcripts or omissions of transcript,  
10 I think this to be background and, therefore, I'm  
11 certainly not instructing the witness to answer, she  
12 wants to be forthcoming I'm sure.

13 But I do want the record to reflect I  
14 regard this not yet within the scope of the  
15 resolution.

16 MR. CHERTOFF: It's relevant because  
17 presumably the internal review has some bearing upon  
18 why certain actions were taken during the course of  
19 the OGE investigation.

20 BY MR. CHERTOFF:

21 Q Was this internal review actually  
22 completed?



1 A Yes.

2 Q And what document was produced at the end  
3 of the internal review?

4 A The testimony that Lloyd presented to  
5 Congress with the attached chronology.

6 Q Was there any other document that was  
7 produced besides that?

8 A Well, you mean like as a final report?

9 Q As a final report.

10 A There were plenty -- as you can tell from  
11 the stack in front of you, there were plenty of  
12 documents that were generated, but, no, there was no  
13 other document that was formally designated a report  
14 or a final work product of the internal review.

15 Q Were there conclusions of the investigation  
16 embodied any other document beside the testimony and  
17 the attached exhibit or exhibits that were submitted  
18 to Congress?

19 A Not that I'm aware of.

20 Q When did you first learn that the Treasury  
21 Inspector General and the RTC Inspector General were  
22 going to participate in an investigation relating to

1 the Treasury White House contacts?

2 A I probably learned that in May.

3 Q How did you learn it?

4 A I'm not sure.

5 Q From whom did you learn it?

6 A I don't remember.

7 MR. CHERTOFF: Excuse me just a moment.

8 Off the record.

9 (Discussion off the record.)

10 BY MR. CHERTOFF:

11 Q In May of 1994, what was the status of this  
12 internal review you were doing?

13 A In May of 1994, we hadn't actually started  
14 the internal review, because Fisk as I understood it  
15 had requested that we not talk to any witnesses in  
16 the White House or elsewhere about the White House  
17 Treasury contacts until he had completed his  
18 investigation.

19 So he asked us to wait. So we hadn't been  
20 able to talk to anyone. The only thing we  
21 were -- had been able to do was review the documents  
22 that the White House had produced to Fisk related to

1 this issue.

2 Q What was your understanding of the reason  
3 that Fisk didn't want to have the White House  
4 conducting its own internal interviews before he  
5 completed his work?

6 A I don't know that I had an understanding.

7 Q Did you have a sense or a belief?

8 A I don't know that anyone ever told me what  
9 his reason was. All I understood was that we had  
10 agreed to abide by his request that we not start our  
11 own review until he had completed his.

12 Q In your own mind, did you have a belief or  
13 understanding or speculation about why he didn't want  
14 you to start until he was done?

15 A I don't recall that I did.

16 Q Did it seem to you that the reason that he  
17 wanted you to wait until he was done was because he  
18 was concerned that the process of the White House  
19 conducting interviews might taint or in some way  
20 affect the recollection of the witnesses?

21 A I don't think so, because he had already  
22 taken all the testimony of all those witnesses, and I

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1 wasn't aware that he was calling any of them back.  
2 So it didn't seem to me that our talking to them  
3 could affect testimony that he had already taken  
4 under oath in the grand jury.

5 Q So was it your view that there was  
6 absolutely no good reason that Mr. Fisk wanted you to  
7 wait until he was done until you started your  
8 interviews?

9 MR. SACHS: I think if this was a lawsuit,  
10 I would be objecting, but I mean --

11 MR. CHERTOFF: It's her state of mind, I  
12 mean.

13 MR. SACHS: I know, but you're also kind of  
14 arguing with her.

15 THE WITNESS: No.

16 BY MR. CHERTOFF:

17 Q Now, what was your understanding of what  
18 the investigation being conducted by the Treasury  
19 Inspector General and the RTC Inspector General was  
20 designed to do?

21 A Well, I understood that Secretary Benson  
22 had gotten a request from Congress even before I

1 think Fisk had started his review of this to look at  
2 White House Treasury contacts, and that Secretary  
3 Benson had referred that request to OGE and asked  
4 them to investigate and give him some opinion on  
5 whether or not standards of conduct had been violated  
6 and that OGE did not have factfinding capability, so  
7 they needed factfinders, and they, in turn, went to  
8 the Inspectors General of the Treasury Department and  
9 the RTC and asked them to conduct the factfinding and  
10 essentially feed the factfinding to OGE.

11 OGE would review it and then provide their  
12 opinion to Secretary Benson, who was going to use  
13 that as the basis for his testimony to Congress.

14 Q In April and May of 1994, did you  
15 understand that any purpose of your internal  
16 investigation or internal review would be to assist  
17 other White House witnesses in preparing their  
18 testimony?

19 A In preparing their testimony for what?

20 Q To Congress.

21 A I think by -- I think we anticipated that  
22 there would come a time in the process of preparing

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1 for hearings when we may engage in that, but I don't  
2 think we -- I had a clear idea in April and May of  
3 how that was going to develop.

4 Q Well, actually let me be a little more  
5 clear.

6 Am I correct in April and May you  
7 understood that the internal review would be used to  
8 prepare Mr. Cutler's testimony to Congress?

9 A Correct.

10 Q And that, in fact, a specific product of  
11 the internal review was to supposed to be the  
12 testimony that Mr. Cutler could give to Congress?

13 A That's right.

14 Q You also anticipated that individual  
15 employees at the White House or former employees at  
16 the White House might be called to testify before  
17 Congress; correct?

18 A In April and May, I'm not sure that  
19 the -- that the form that the hearings would take was  
20 really clearly understood by me or anyone else, so  
21 I'm not sure. But I think that given that a number  
22 of people had testified in the grand jury, I probably



1 did think it was likely that there would be White  
2 House witnesses who would be asked to testify in  
3 addition to Mr. Cutler.

4 Q And in April and May, still keeping your  
5 attention on that, was there any discussion  
6 concerning whether the White House counsel  
7 would -- office or specifically your group in the  
8 White House Counsel's Office would be representing  
9 these additional witnesses or would be assisting  
10 these additional witnesses in any way?

11 A I think there probably was.

12 Q What was the discussion?

13 A I think that -- that we recognized that  
14 White House officials had engaged in activity in  
15 their official capacity, that was something that the  
16 White House Counsel's Office hadn't an interest in  
17 understanding and presenting, and like it was  
18 important to us to make sure that Lloyd understood  
19 the full story and presented it accurately and  
20 truthfully to the Congress.

21 It would have been equally important to us  
22 that other White House officials who had been acting

1 in an official capacity reported their conduct  
2 truthfully and fully in a Congressional hearing.

3 I think all of those interests would have  
4 been ones that we viewed ourselves as -- as having an  
5 obligation to -- to ensure were met appropriately.

6 Q Did you -- was there discussion in April  
7 and May about whether the White House Counsel's  
8 Office should be representing individuals who might  
9 have been actual witnesses to the events of the White  
10 House contacts in any hearings?

11 MR. SACHS: When you say represented, you  
12 mean acting as their counsel?

13 MR. CHERTOFF: Acting as their counsel,  
14 appearing with them at depositions and the hearings.

15 THE WITNESS: Sure, yes.

16 BY MR. CHERTOFF:

17 Q What was the discussion about that?

18 A Well, all of these people, of course, had  
19 been -- I mean I'm not sure which people we're  
20 talking about, I assume we're talking about the  
21 players that eventually testified before Congress,  
22 but, you know, most, if not all, of them had already



1 testified in the grand jury and had had personal  
2 counsel for that purpose.

3 And I'm not aware that White House counsel  
4 participated in preparing those individuals for grand  
5 jury testimony, I wasn't there then.

6 So in connection with -- with Congressional  
7 hearings, I believe you and I even had discussions  
8 about whether White House counsel would be present at  
9 depositions and the capacity in which White House  
10 counsel would function with respect to those  
11 witnesses.

12 So, yes, we did talk about it internally,  
13 and we talked about it with you and others who were  
14 working with the committee at that time.

15 Q When was the first time you had a  
16 discussion with anybody from Treasury or the RTC  
17 concerning the Inspectors General -- General's  
18 investigation pursuant to this order or request from  
19 Secretary Benson to OGE?

20 A I'm sorry, when was the first time I had  
21 discussions with --

22 Q With anybody from Treasury or the RTC about

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1 this Inspector General investigation.

2 A Probably in midMay.

3 Q What was the occasion for that?

4 A In midMay, we began reviewing the documents  
5 that Treasury had provided to the grand jury or to  
6 Fisk in connection with White House Treasury  
7 contacts, and at that point, I believe we had some  
8 understanding or -- I'm not sure if this is where I  
9 got my initial understanding, back to your earlier  
10 questioning, or I had it elsewhere.

11 But I started to learn more in my  
12 conversations that I had with Treasury officials in  
13 the course of that documentary view about how they  
14 were proceeding to prepare for hearings and how  
15 Secretary Benson was expecting to conduct his  
16 factfinding.

17 And so I think that was when I began to  
18 understand how the IGs may be thinking about doing  
19 their work and this relationship with OGE and how it  
20 would all come back to Secretary Benson.

21 Q Who did you talk to about that?

22 A I don't remember specifically.

1 Q Do you remember whether it was someone in  
2 the Office of General Counsel?

3 A I don't have a specific recollection of a  
4 conversation, but there were a number of lawyers in  
5 the General Counsel's Office that -- that I  
6 communicated with, and it could have been any -- any  
7 one of them.

8 Q Was it Ed Knight?

9 A It could have been.

10 Q In the period, again in May 1994, did  
11 Mr. Cutler tell you he had had any conversations with  
12 anybody from Treasury concerning how they were going  
13 to handle their investigation and what the end  
14 product might be?

15 A I don't recall that; he may have.

16 Q Did Mr. Cutler tell you he had spoken to  
17 Secretary Benson about it in May?

18 MR. SACHS: Did Cutler say he spoke to  
19 Benson in the month or May or --

20 MR. CHERTOFF: Yes.

21 THE WITNESS: I don't recall. I believe he  
22 may have spoken to Secretary Benson in May and would

1 have told me about that conversation, but I don't  
2 have a specific recollection.

3 BY MR. CHERTOFF:

4 Q Did there come a time in June that you  
5 learned that Mr. Fisk had given the green light to  
6 Treasury and the RTC and to the White House to  
7 conduct whatever investigative activities they wanted  
8 to conduct?

9 A Yes.

10 Q And how did you learn about that?

11 A I don't remember precisely how I learned  
12 about it. Fisk issued a report and a statement on  
13 June 30th, 1994, and it was about that point that we  
14 understood that he no longer had any reservation or  
15 objection to us going forward with our internal  
16 review.

17 Q Before that actually was issued in June  
18 30th, did you have any advance notice that you should  
19 begin to prepare to undertake your work?

20 A Well, the Senate -- there was a Senate  
21 resolution that passed at some point I think prior to  
22 that.

1 Q The very end of June.

2 A That would certainly have been notice that  
3 we were going to have hearings, and I think there was  
4 some sort of a sunset in the resolution that required  
5 hearings to begin no later than a certain date which  
6 was the end of July, I believe it may have been July  
7 29th or something.

8 So I think we at least knew that we were  
9 going to have to have the review completed by the end  
10 of July. And I know in anticipation of that, you  
11 know, from the time I came in April, we figured there  
12 would be hearings at some point. And we needed -- we  
13 needed to -- to get ready for that in -- I think we  
14 were always anticipating that.

15 Q As -- as of June 30th, had you discussed  
16 with anybody coordinating the activities of the White  
17 House investigation and those of the OG -- we'll call  
18 the OGE investigation?

19 A I think I probably had.

20 Q With whom?

21 A I think initially it would have been Steve  
22 McHale.

1 Q Who's Steve McHale?

2 A Steve McHale is in the General Counsel's  
3 Office in the Treasury Department, and at some point,  
4 I think -- I believe I would have spoken to Francine  
5 Kerner.

6 Q This is before June 30th?

7 A I think so -- I'm not sure of that, but I  
8 think -- I think it's before June 30th.

9 Q Why would you have talked to Mr. McHale and  
10 Ms. Kerner?

11 A Well, it was I think clear to all of us  
12 that we were all working toward the same deadline,  
13 that there were going to be hearings at the end of  
14 July, that we -- they needed information to complete  
15 their review, McHale, of course, would have been  
16 concerned about making sure Secretary Benson was  
17 prepared to testify, and they were going through this  
18 OGE process, so Francine Kerner would have been  
19 involved.

20 They were going to need access to White  
21 House witnesses and documents. And so it would have  
22 been natural in anticipation of this -- you know,



1 this green light was going to come at some point  
2 soon, we figured in anticipation of that we'd begin  
3 talking about how they were going to get the  
4 information from us that they needed and how we were  
5 going to get the information from them that we needed  
6 all to be ready to testify for hearings by the end of  
7 July.

8 Q As of June 30th, what was your  
9 understanding about how the Inspector Generals were  
10 going to conduct their investigation?

11 A Well, I think that question would be easier  
12 for me to answer if you didn't hold me to June 30th,  
13 it would be around that time.

14 Q Around June 30th, yes.

15 A Around that time frame. I know there was  
16 some talk of -- that they would be conducting  
17 interviews, that it was unsettled, whether -- whether  
18 the people from treasury, General Counsel's Office  
19 would participate in the interviews, I knew that that  
20 was part of the discussion.

21 I don't think they had settled on whether  
22 it was going to be a deposition format or an

1 interview format. They hadn't identified I don't  
2 believe the people that they thought they needed to  
3 talk to, but that there was some conversation,  
4 communication that they were going to go through  
5 interviews and then present, this is the IGs, and  
6 that it would be done jointly I understood that.

7 Q Jointly?

8 A Between RTC and Treasury IGs, that they  
9 each wouldn't do their own investigation, but that  
10 they would both be present for these interviews and  
11 would somehow report that factfinding to OGE.

12 Q Now, did you understand, again, as of on or  
13 about June 30th that the Inspectors General were  
14 going to be working and reporting to the Office of  
15 the Government Ethics?

16 A Yes.

17 Q And that their work was being undertaken at  
18 the direction of the Office of Government Ethics?

19 A Direction, request, I'm not sure -- I  
20 hadn't really known whether OGE was defining what  
21 they should do or the scope of their review or who  
22 they should talk to, but I knew they were reporting



1 their factfinding to OGE.

2 Q Did you understand as of June 30th that one  
3 of the components of the Treasury Department that was  
4 the subject of this investigation was the Office of  
5 General Counsel?

6 A Well, certainly I knew that Jean Hanson was  
7 one of the people who had participated in the  
8 contacts that are under review, so, again, I don't  
9 think I thought of it in terms of the Office of  
10 General Counsel being a subject of the review, but I  
11 certainly knew that Jean Hanson who was general  
12 counsel was the participant in the contacts and that  
13 her conduct would be a subject of review.

14 Q Did anybody ask -- to your knowledge,  
15 either Mr. Cutler or yourself, did anybody from  
16 Treasury ask either Mr. Cutler or yourself about any  
17 advice about how they should participate or structure  
18 or assist in conducting the IG investigations?

19 A Not that I'm aware of.

20 Q Did you have discussions with, again in  
21 June, with people from the Office of General Counsel  
22 or the Secretary's own office about how you were

1 anticipating the Inspectors General would conduct  
2 their investigation?

3 A How we at the White House anticipated  
4 them?

5 Q Yes.

6 A I'm not sure I understand the question. It  
7 would have been just telling them what we had heard  
8 from them, so I'm not sure.

9 Q Well, did you have discussions with either  
10 people from the Secretary's Office or the Office of  
11 General Counsel of Treasury, you and/or Mr. Cutler  
12 about what you all collectively anticipated would be  
13 the manner in which the Inspectors General would be  
14 conducting their investigations?

15 A I don't recall discussions that -- that  
16 precisely fit within the question that you're  
17 asking.

18 Q How about do they fit generally within it?

19 A Well, we certainly talked about how they  
20 were going to proceed and how we were going to  
21 proceed on these two tracks and what we anticipated  
22 they would need and what they had asked us for.

1           So there were -- there were conversations  
2 about how OGE would be proceeding, but it was in  
3 connection with how we were all going to get the  
4 information we needed to complete it in time for the  
5 hearings.

6           Q   Well, were you looking to get information  
7 as of June 30th from the Inspectors General so that  
8 you could use that information to do your own  
9 internal review?

10          A   I don't -- again June 30th isn't -- at some  
11 point, we certainly started talking to the  
12 inspectors -- to the representatives from the IG  
13 offices about how we could get information from them  
14 that would assist us in completing our review, and  
15 they were asking us for information that they needed  
16 to assist them in completing their review. So at  
17 some point, yes, we did have those discussions.

18          Q   Do you know if in June 1994, Mr. Cutler had  
19 conversations with Secretary Benson about the issue  
20 of these concurrent investigations?

21          A   I believe he did.

22          MR. PORTNOY: I'm sorry, what was the

1   date?

2           MR. CHERTOFF: In June of 1994.

3           BY MR. CHERTOFF:

4           Q   Did he tell you or did you otherwise learn  
5 what those conversations were?

6           A   I believe it was sometime in June that he  
7 had lunch I think with Secretary Benson, and they may  
8 have talked generally about how each, you know, how  
9 the White House and the how the Treasury Department  
10 was going to get the information necessary to  
11 complete their reviews.

12          I don't remember whether he told me  
13 anything of substance about the conversation or if  
14 there was anything of substance other than to  
15 acknowledge that the --

16          Q   Well, in June, did you and Mr. Cutler have  
17 a meeting with OGE concerning the OGE investigation?

18          A   Yes.

19          Q   And where was that?

20          A   That would have been in the White House in  
21 Mr. Cutler's office.

22          Q   And what was the subject of the meeting?

1 A Well, I think the subject of the meeting  
2 would have been how we were going to obtain from OGE  
3 advice about whether the conduct we had identified  
4 was having occurred violated any ethical standards.

5 We understood that they were going to get  
6 the factfinding from the IGs on which they were going  
7 to rely and opine about Treasury conduct, and we  
8 wanted a similar opportunity to get the benefit of  
9 their opinion with respect to the conduct we had  
10 identified.

11 And so as I recall the subject of the  
12 meeting was to explore with them how we could  
13 accomplish that and what a process would be to  
14 follow.

15 Q You attended the meeting?

16 A Yes.

17 Q Mr. Cutler did?

18 A Yes.

19 Q What was the discussion in the meeting  
20 about how you could achieve what you wanted to  
21 achieve?

22 A I don't recall the discussion.

1 Q Did anybody suggest to you at this point  
2 that the factfinding could be done by the Inspectors  
3 General and then the Office of Government Ethics  
4 could simply render opinions to Treasury in the White  
5 House as to the, you know, pertinent individuals in  
6 each?

7 A That the factfinding -- with respect to  
8 White House conduct would be done by the Treasury  
9 IG?

10 Q Did anybody raise the possibility that the  
11 development of the facts, the actual collection and  
12 interviewing of deposing of people could be done by  
13 the Inspector General at Treasury and that the  
14 opinions about whether conduct of White House  
15 personnel or conduct of Treasury personnel was  
16 appropriate could be rendered by OGE to whichever,  
17 you know, department or whichever office was  
18 concerned about it?

19 A Not that I recall, no.

20 Q What was the upshot of the meeting in June  
21 with OGE?

22 A I don't recall.



1 Q Did OGE ask you to prepare factfinding for  
2 them to so they could render an opinion to the White  
3 House?

4 A No.

5 Q Did OGE say they would not render an  
6 opinion to you?

7 A No.

8 Q Did OGE say they would render an opinion to  
9 you?

10 A I don't remember if they did or not. I  
11 think at that point no one had been given the green  
12 light yet by Fisk, so no one was quite sure how this  
13 was all going to develop, how it was going to  
14 produce, how the IGs was going to do their work.  
15 There was a lot as I recall that was unformed at that  
16 point, so I don't recall any specific conclusion.

17 Q Now, you testified a little bit earlier  
18 about a lunch which you recalled Mr. Cutler having  
19 with Mr. Benson.

20 Did you prepare talking points for that  
21 lunch?

22 A I believe I did.

1 Q And I'm going to show you what's been  
2 marked as S7386 and 7387.

3 Are these redacted copies of the talking  
4 points you prepared?

5 MR. BEN-VENISTE: What were those numbers,  
6 please?

7 MR. SACHS: 7386 and 7387.

8 (Witness reviews the document.)

9 THE WITNESS: Do you have the third page?

10 BY MR. CHERTOFF:

11 Q Those are the only pages I have. I will  
12 ask you about 7387. Now --

13 MR. SACHS: Do you have a copy of that?

14 MR. CHERTOFF: I'm afraid that's it.

15 BY MR. CHERTOFF:

16 Q I specifically want to -- I'll read it into  
17 the record so we have it -- so everyone knows what it  
18 says, one of the -- under the bullet headed internal  
19 review, there's a couple -- a couple entries down,  
20 the taking points say, we understand Ellen Kulka has  
21 raised an objection to White House review of Treasury  
22 documents out of a concern that those documents



1 include what she considers to be RTC documents.

2 Kulka staff reviewed Treasury documents in  
3 anticipation of the White House review and raised  
4 limited objections which were honored. We were not  
5 permitted to review anything related to the  
6 underlying RTC investigation or anything RTC  
7 considered privileged, status of Treasury response to  
8 Kulka's objection, question mark.

9 Now, from where did you learn that Ellen  
10 Kulka raised an objection to review of White House  
11 Treasury documents?

12 A I believe from Steve McHale.

13 Q And what did he tell you about that  
14 objection?

15 A I believe he told me what's written in  
16 those talking points that Kulka had raised an  
17 objection because she believed that notwithstanding  
18 the review of the material in advance of our  
19 reviewing it that they now believed that some of the  
20 material that they hadn't withdrawn prior to our  
21 review may be RTC material that they didn't want us  
22 to see.

1 Q These were -- this is RTC material that was  
2 part of a collection of documents in the custody of  
3 Treasury?

4 A Well, I understood that part of the dispute  
5 was whether or not this material was RTC material or  
6 Treasury material, and that Kulka somehow thought  
7 that any RTC material we shouldn't be reviewing and  
8 that the dispute really involved not so much the  
9 substance of the material, although, I'm not sure  
10 about that, but rather whose documents they were.

11 Q Did you understand that Ellen Kulka's  
12 objection related in part to a concern about the fact  
13 that some of the materials related to the underlying  
14 RTC investigation?

15 A I don't know if I understood that or not.

16 Q Did you understand that -- her objection  
17 was based on part on some concerns about privilege  
18 that the RTC would want to maintain?

19 A No, I didn't understand that.

20 Q Well, when you say -- you enter -- you have  
21 an entry here, we were not permitted to review  
22 anything related to the underlying RTC investigation

1 or anything RTC considered privileged.

2 What did you mean by that?

3 A Well, when we first began reviewing those  
4 documents in May, we had made clear as I believe Joel  
5 Kline memorialized in a letter to Ed Knight that we  
6 wanted Treasury to be absolutely certain that there  
7 was no material in those documents related to the  
8 underlying RTC/Madison investigation and that we did  
9 not -- explicitly did not want to review that  
10 material.

11 I understood that before we were then  
12 permitted to review the material that the material  
13 had been reviewed by both Treasury and RTC lawyers  
14 and whatever anybody had any concerns about had been  
15 removed, whether material had been removed because  
16 there was -- that there were substantive concerns  
17 that there may have been information in that material  
18 that went to the underlying investigation or whether  
19 there were privileged concerns, I can't remember.

20 I thought it was mostly substantive  
21 concerns, but maybe they had -- maybe McHale had told  
22 us that there were privilege issues involved as well.

---

1 Q Was it your understanding that as of June  
2 21st, Ms. Kulka was satisfied with the resolution of  
3 that?

4 A Well, that's hard to answer, because my  
5 understanding was that as of May 12th, she was  
6 satisfied with it, and then she changed her mind and  
7 raised an objection later, so as a moving concept  
8 here that I don't think is applicable.

9 Q Was Mr. Cutler supposed to find out in the  
10 lunch from Secretary Benson what Treasury's response  
11 would be to Ms. Kulka's objection?

12 A I don't believe so. But can I take another  
13 look at the document, please?

14 Q Sure.

15 (Witness reviews the document.)

16 THE WITNESS: There's a talking point here  
17 that says status of Treasury response to Kulka  
18 objection question mark. I think -- we had suspended  
19 our review as soon as Kulka raised an objection about  
20 this, we said, you know, we do not want to get into  
21 any of the substance, we are not going to repeat  
22 history here.

1 This is -- we're not going to get ourselves  
2 involved in reviewing material that is the very issue  
3 that we're investigating. If there's any concern  
4 here that she has about this, we're going to suspend  
5 our review until it's resolved.

6 And so what I would expect is that what  
7 this is referring to is are we going to be able to  
8 resume our review, has this issue been resolved or  
9 are we just going to stay in a state of suspense.

10 Q So you -- you had it in your mind as of  
11 June 21st a specific concern about, as you put it,  
12 not repeating the past mistake and getting  
13 confidential material with the RTC that was  
14 substantive; correct?

15 A Correct.

16 Q In the meeting with Mr. Benson, was  
17 Mr. Cutler also -- did he also express an intention  
18 how to raise the question how the White House might  
19 get access to the product of the Treasury  
20 interviews -- of the IG interviews of various  
21 witnesses?

22 A Well, I wasn't present at the meeting.

1 Q Did you discuss with him what he wanted to  
2 do going into the meeting?

3 A I don't know if I discussed it or not. I  
4 know I prepared the talking points, this was my wish  
5 list for the meeting.

6 Q And part of your wish list was -- was we  
7 will want to work out arrangements for obtaining  
8 information from Treasury witnesses through some  
9 combination of direct interviews, review of IG  
10 interview memoranda and lawyer proffers?

11 A I think at the time of this meeting that  
12 was probably the state of our aspirations about  
13 sharing information with Treasury.

14 Q Did there come a time when you learned that  
15 the Inspector Generals were going to proceed by way  
16 of deposition?

17 A Yes.

18 Q How did you learn that?

19 A I think I learned that from Francine  
20 Kerner.

21 Q Do you remember when?

22 A No.



1 Q Was it shortly after you got the green  
2 light to go ahead with your internal review and IG  
3 had its green light to go ahead with its internal  
4 review?

5 A I believe it must have been before that,  
6 because I know that I've seen documents. I don't  
7 have an independent recollection of this, but I've  
8 seen documents that suggest that we were treating the  
9 deposition format as a fact where something we knew  
10 we were going to live with prior to the green light  
11 or around the time of the green light, so I'm not  
12 sure if we knew that as of that moment.

13 Q Either during the lunch or on June 21st  
14 sometime thereafter, did Mr. Cutler and Mr. Benson  
15 reach an agreement between themselves about sharing  
16 Inspector Generals depositions?

17 A Not that I'm aware of.

18 Q You have no awareness of any agreement  
19 between Mr. Cutler and Mr. Benson about sharing  
20 Inspector Generals depositions with the White House?

21 A At any time?

22 Q At any time.

1 A Oh, sure there came a time when there was  
2 an agreement about sharing.

3 Q When was that?

4 A Well, I know it was at least -- we  
5 got -- we got the depositions, so it would have been  
6 sometime prior to the time we got the depositions,  
7 which I believe was on July 23rd; but what they  
8 discussed prior to that to get to that point, I don't  
9 know, I was never a participant in any discussion  
10 between Lloyd Cutler and Lloyd Benson.

11 Q Did you on July 1st, 1994, did you and  
12 Mr. Cutler meet with the lawyers for some of the  
13 individuals at the White House who you anticipated  
14 would be questioned by you in your internal review?

15 A Yes, I believe we did.

16 Q Who called the meeting?

17 A Mr. Cutler.

18 Q Did anybody attend from Treasury?

19 A No.

20 Q Was Mr. Med there?

21 A No, no.

22 Q Can you recall which witnesses were



1 present -- which individuals were present at the  
2 meeting?

3 A Not off the top of my head.

4 Q Were there people from the White House  
5 Counsel's Office who were there not as assistants to  
6 you, but as people who were potential witnesses?

7 A I believe there was one.

8 Q Who was that?

9 A I believe Cliff Sloan was there.

10 Q Was Mr. Nussbaum there?

11 A No.

12 Q Did he have a representative there?

13 A I don't think so. He was a former White  
14 House official, and I don't think he was -- had a  
15 representative there at that time.

16 Q Was there anybody from the White House who  
17 was then employed at the White House as to say on  
18 July 1, 1994 who was present beside Mr. Sloan?

19 A Other than Mr. Cutler, I believe Sheila  
20 Cheston was present. And I'm not sure, there may  
21 have been -- there may have been others, but I'm not  
22 sure.

1 Q What was the reason you held the meeting?

2 A The purpose of the meeting was to try and  
3 explain to these lawyers for White House officials  
4 what we saw happening from July 1 to the end of the  
5 month. It was clear to us at that point that we had  
6 an internal review we needed to conduct and we needed  
7 the cooperation of their clients.

8 We knew that the Inspectors General were  
9 going to want access to them. I can't remember at  
10 that point if we knew that it was going to be in a  
11 sworn deposition format or what, but we knew that  
12 that was going to occur.

13 We figured that the committee would be  
14 taking depositions, that the House Banking Committee  
15 would be either taking depositions or interviewing  
16 people. There was a lot that was going to happen to  
17 these people and their clients in a month period and  
18 so we wanted to talk to them about how we anticipated  
19 all of it developing and essentially seek their  
20 cooperation.

21 Q Were you -- did you discuss with them the  
22 fact that -- let me withdraw the question.

1 Did Mr. Cutler do the talking for the  
2 people who were conducting the internal review?

3 A For the people?

4 Q Yes. From the standpoint of the people who  
5 were going to conduct the internal review, was it  
6 Mr. Cutler who did the talking?

7 MR. SACHS: In other words as opposed to  
8 Jane and Ms. Cheston?

9 MR. CHERTOFF: Yes.

10 THE WITNESS: I believe so, although, I  
11 don't have a clear recollection of the meeting.

12 BY MR. CHERTOFF:

13 Q Was one of the purposes of the meeting to  
14 advise everybody that there was going to be an  
15 internal review in order to find, make certain  
16 factfinding and recommendations to the President and  
17 that everybody should cooperate?

18 A No, I believe everyone who was present  
19 already knew that.

20 Q Was one of the purposes of the meeting to  
21 tell people that Mr. Cutler and you and Ms. Cheston  
22 would assist the individuals and their lawyers in

1 preparing for the hearings?

2 A I don't remember.

3 Q Was that a possibility you discussed at  
4 all?

5 A I don't remember. I know that there are  
6 talking points from that meeting, and I don't -- I  
7 don't even remember if those talking points were  
8 followed to the letter. In reviewing those, it might  
9 refresh my memory, but I don't remember specifically  
10 that we talked about preparing witnesses for  
11 Congressional hearings at that meeting.

12 Q Was there any discussion about how  
13 Mr. Cutler and you and Ms. Cheston would conduct  
14 interviews, the manner in which they would take  
15 place?

16 A I don't remember specifically, there may  
17 have been.

18 MR. SACHS: Michael, if there is a document  
19 that would refresh the witness' recollection, let me  
20 suggest that you show the witness.

21 MR. CHERTOFF: Steve, we'll get to that,  
22 but I want to exhaust the recollection before we get

1 to the documents.

2 MR. SACHS: It seems to be a game, but --

3 BY MR. CHERTOFF:

4 Q Actually, while we're on the subject, you  
5 produced or there were produced from the White House  
6 some documents relating to this.

7 Did you review -- have an opportunity to  
8 look at those documents before you came here?

9 A The documents that were produced?

10 Q Yes.

11 A I reviewed some of them.

12 Q Did you review your talking points for the  
13 July 1 meeting?

14 A No.

15 Q In the course of that meeting, was there  
16 discussion --

17 MR. BEN-VENISTE: There's been a request to  
18 be able to review the document, Michael.

19 MR. CHERTOFF: I understand that,  
20 Mr. Ben-Veniste. I'm going to ask some questions and  
21 then if necessary to refresh recollection, we'll use  
22 the document.

1 MR. SACHS: The witness has already said  
2 she would benefit from seeing the document, Michael,  
3 and if the -- if the issue here is to test the  
4 witness' recollection unaided by any relevant  
5 evidence, that's seems to me not really something  
6 that we ought to be wasting our time with.

7 You want to know the facts of what happened  
8 in the meeting, and there are notes that might  
9 refresh the witness' recollection, I really urge you  
10 to show it to her.

11 BY MR. CHERTOFF:

12 Q Now, my question is, was there discussion  
13 in the meeting concerning what the Inspector General  
14 depositions would be like?

15 MR. BEN-VENISTE: Michael, is this a test  
16 of memory, or are we just trying to get --

17 MR. CHERTOFF: It's really.

18 MR. BEN-VENISTE: Can we really just try to  
19 get to the issues here, if there really are some  
20 issues?

21 MR. CHERTOFF: Richard, we can spend 20 or  
22 30 minutes on speeches. I'm still going to do it the

1 way I want to do it, so let's move along.

2 MR. BEN-VENISTE: You do not wish to show  
3 the witness her notes of that meeting?

4 MR. CHERTOFF: No, what I wish to do,  
5 Richard, is I want to proceed in the way that I want  
6 to proceed, okay?

7 MR. BEN-VENISTE: I think it's  
8 objectionable, but go ahead.

9 MR. WITTEN: Let me make it clear, those  
10 are not notes of the meeting.

11 MR. BEN-VENISTE: Those are talking points  
12 for the meeting.

13 MR. CHERTOFF: It'll be clear in good  
14 time.

15 BY MR. CHERTOFF:

16 Q Now, my question is, in the course of the  
17 meeting, was there discussion about the Inspector  
18 General's depositions or interviews and how they  
19 would be handled?

20 A I believe so.

21 Q What do you recall about it?

22 A Nothing.

1 Q I'm going to show you what's been marked as  
2 S7392 through 94, and you can read as much as you  
3 would like.

4 But I'm going to direct your attention and  
5 particularly to the bottom of page 2 where it says,  
6 the IGs will proceed jointly by taking sworn  
7 depositions of those involved in the contacts.  
8 Details are still being worked out. We will likely  
9 have transcripts within 24 hours, including  
10 transcripts of depositions of Treasury and possible  
11 RTC witnesses after the completion of the depositions  
12 of White House witnesses.

13 And I want to ask you if that or anything  
14 else in the document refreshes your memory about what  
15 occurred in the -- in the course of the meeting?  
16 There's another page, 7395, but it's very  
17 substantially redacted.

18 (Witness reviews the document.)

19 MR. SACHS: Why don't you read the page and  
20 then give it to me and I'll give it to Roger?

21 THE WITNESS: Okay.

22 MR. SACHS: Ready to go?



1 THE WITNESS: All set, ready to go.

2 BY MR. CHERTOFF:

3 Q Is your memory refreshed about the  
4 conversation you had or conversation Mr. Cutler had  
5 in the course of that meeting with the witnesses and  
6 lawyers about transcripts?

7 A Well, actually it's not. I don't remember  
8 precisely what was said in this meeting. I don't  
9 have a reason to believe these things weren't said, I  
10 believe we talked about it, but I don't have a clear  
11 recollection.

12 Q Did you have the idea on July 1 that  
13 transcripts were going to be made available within 24  
14 hours after the Inspectors General had taken them?

15 A Well, this is what you asked me earlier if  
16 I understood that the deposition format would be  
17 adopted. I was thinking of this -- these notes on  
18 July 1 where I clearly did have that understanding,  
19 so it must have been something I discussed with  
20 Francine Kerner prior to July 1.

21 At that point, I believe that we were still  
22 talking about how we were going to share

1 information. We were trying to find a way to get the  
2 information we needed from Treasury and RTC  
3 witnesses, and if there was a way to do it short of  
4 us having to repeat interviews what the IGs were  
5 doing, one of the opportunities, of course, would  
6 have been for us to review the transcripts rather  
7 than conduct the interviews ourselves.

8 There must have been some discussion prior  
9 to this meeting about a 24-hour turnaround on the  
10 transcripts. I may have understood that there was  
11 some possibility that they would provide the White  
12 House with those transcripts; they may have been  
13 talking about just pricing the witnesses with the  
14 transcripts.

15 I don't remember where we were in the  
16 discussion of how that information sharing would  
17 proceed on July 1.

18 Q Did you have a meeting with Ms. Kerner and  
19 Ms. Black from the RTC Inspector General's office  
20 shortly after July 1 to discuss the issue of the  
21 transcripts?

22 A I'm not sure the purpose of the meeting was

1 to discuss the issue of the transcripts, we met  
2 shortly after July 1 to discuss how we were going to  
3 get all the information we all needed in order to  
4 meet the deadlines ahead of us.

5 Q Who was at the meeting?

6 A It was Pat Black, Francine Kerner, Sheila  
7 Cheston, and I was there.

8 Q Who called the meeting?

9 A I don't remember.

10 Q Do you remember when the meeting was during  
11 the day?

12 A I believe it was in the afternoon.

13 Q Did it take place in your office?

14 A No, it was in Francine's office.

15 Q At -- where was Francine's office,  
16 Treasury?

17 A Treasury.

18 Q What was discussed in the meeting?

19 A We talked about how the IGs were going to  
20 proceed to gather information, how the White House  
21 expected to proceed with its internal review in  
22 gathering information, timing, when people could be

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1 made available, how we were going to obtain the  
2 information we needed to complete Mr. Cutler's  
3 interview.

4 The concern that we had at the time was we  
5 could talk to White House witnesses, and they could  
6 say, no, we had no contacts with Treasury, we had no  
7 contacts with RTC other than the ones that had  
8 already been reported.

9 But we needed to confirm that there wasn't  
10 anyone in Treasury or RTC who had identified  
11 communications with White House officials that were  
12 inconsistent with what we were hearing from White  
13 House people, and so our goal in the meeting was to  
14 explore with these folks how we could get the  
15 information we needed to complete our review and how  
16 we could work with them to give them what they needed  
17 to complete their review, all of us recognizing that  
18 hearings were going to start in three and a half  
19 weeks.

20 Q Did you ask for the transcripts to be  
21 provided from the Inspector General's investigations?

22 A At that meeting?

1 Q Yes.

2 A I suspect I probably did. I don't remember  
3 exactly when that question came up, but I'm sure that  
4 was discussed as an option or a way for us to get the  
5 information we needed short of having us reinterview  
6 all the people that they were interviewing.

7 Q What did Ms. Kerner say?

8 A I don't remember.

9 Q What did Ms. Black say?

10 A I know that Ms. Black viewed our request as  
11 unorthodoxed, and that she was not approaching this  
12 in a spirit of cooperativeness.

13 Q Does that mean she said no?

14 A I don't recall that she said no.

15 Q Does that mean she raised an objection?

16 A I don't recall that she raised an  
17 objection; although, I know -- I know that I -- that  
18 she -- I remember her saying this isn't the way we do  
19 things and talking to her about finding a way to  
20 accommodate both needs.

21 I know she said, you know, there's certain  
22 protocols we follow, this would be unusual for us to

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1 depart from this. I remember saying we're in an  
2 unusual situation, if we think creatively together,  
3 we ought to be able to come up with a way to get  
4 everyone what they need without compromising the  
5 integrity of any investigation.

6 Q Was her position at the Inspector General  
7 at least of RTC contacts was their investigations  
8 independently and, therefore, they don't  
9 share -- want to share the product of that  
10 investigation with anybody else before they've  
11 completed their work?

12 A I don't remember her stating it that  
13 plainly.

14 Q In substance, did she say that?

15 A But that is probably what she was  
16 conveying.

17 Q When she -- when she left the meeting or  
18 when you left the meeting, were you under the  
19 impression that she had given a green light to have  
20 the transcripts turned over?

21 A No.

22 Q Did she ever say anything to you afterwards

1 that indicated that she had approved transcripts of  
2 RTC Inspector General interviews or testimony being  
3 turned over to the White House before the OGE report  
4 was made public?

5 A That Pat Black had?

6 Q Yes.

7 A No, I think most of my continuing  
8 communication with the IGs were with Francine. I  
9 sort of dealt with them as a unit, and I assumed that  
10 what I was hearing from Francine was an IG position.  
11 So I don't -- I don't remember having further  
12 discussions with Pat on the subject.

13 Q Did you ever ask Francine after that fact  
14 whether Pat Black had agreed to have transcripts  
15 turned over to the White House?

16 A I don't think I did.

17 Q Did you indicate to anybody at some point  
18 that you were -- withdrawn.

19 Did you indicate to Francine at some point  
20 that you were acting as an investigator doing a  
21 report for OGE?

22 A No.

1 Q It's quite clear, is it not, that at no  
2 point did OGE ask the White House to prepare a review  
3 to submit to OGE?

4 A I'm not sure OGE would have any reason or  
5 authority to do that, but it's quite clear that they  
6 didn't.

7 Q And there was no arrangement that the White  
8 House had with OGE in which the White House was going  
9 to submit a report to OGE for OGE to render an  
10 opinion; correct?

11 A No, that's not correct. What we had asked  
12 OGE to do, and I can't remember at what point they  
13 agreed to do this, was to review our factfinding that  
14 we would present to them and then tell us if on those  
15 facts, if they took them as true, and given were  
16 there any -- what were, if any, the violations of the  
17 standards of conduct.

18 Q OGE agreed to do that?

19 A Yes.

20 Q And did they do it?

21 A Yes.

22 Q They reviewed it and offered a written



1 opinion saying these were or were not violations?

2 A Their written opinion -- they didn't have a  
3 written opinion. They reviewed Lloyd Cutler's  
4 testimony in which he characterized their review of  
5 the factfinding and their opinion, and they agreed  
6 with his characterization.

7 Q Why did the White House choose that method  
8 of submitting factfinding to the OGE?

9 A Well, we didn't have -- we didn't have  
10 transcripts to submit, we had interviews, and so we  
11 presented the interviews even rather than a report,  
12 although, I think we actually gave them our  
13 chronology at some point in draft form.

14 As a matter of fact, I know they -- I know  
15 we did because I had a copy of it for them to review,  
16 so they got that. We -- we also at some point before  
17 we had completed the chronology made a -- an oral  
18 presentation to them, but I think it was probably  
19 simply the format that we were using to conduct the  
20 internal review and the shortness of time.

21 I don't think we had our chronology  
22 prepared for them to look at with sufficient notice,

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1 especially given that they were reviewing volumes  
2 from the IGs, but I think it was -- it was a time  
3 issue as well as related to the format in which we  
4 had conducted our internal review.

5 MR. CHERTOFF: Excuse me one moment.  
6 (Pause.)

7 MR. SACHS: Mike, we've been going for an  
8 hour and 20 minutes.

9 MR. CHERTOFF: Should we take our dinner  
10 break?

11 MR. SACHS: Maybe this will be the dinner  
12 break too.

13 MR. CHERTOFF: Okay, that's good.  
14 (A brief recess was taken.)

15 BY MR. CHERTOFF:

16 Q Still directing your attention to this  
17 meeting you had with Ms. Kerner and Ms. Black, is it  
18 a fact that Ms. Black told you during the course of  
19 that meeting that she was adamantly opposed to  
20 turning RTC Inspector General deposition transcripts  
21 over to the White House?

22 A I don't recall that.

1 Q And do you recall in substance that she  
2 communicated that view to you?

3 A That she was adamantly opposed?

4 Q To turning over transcripts to the White  
5 House.

6 A No.

7 Q At any rate, you would agree with me that  
8 when she left, you were under the impression that she  
9 was not approving of the turn over of transcripts?

10 A That's accurate. She was plainly skeptical  
11 that we could work out an arrangement that she would  
12 be satisfied with, but I didn't have the impression  
13 that we were not going to continue to talk about it.

14 Q And you didn't -- your further  
15 conversations about the transcripts, however, were  
16 directed at Ms. Kerner?

17 A I believe so, I continued to have periodic  
18 conversations with Pat Black, and I may have had  
19 talked to her about the transcripts, but I don't  
20 recall.

21 Q Did you talk to Francine Kerner before this  
22 meeting with Pat Black and Kerner about the upcoming

1 meeting concerning the transcripts?

2 A Calling the meeting a meeting concerning  
3 the transcripts is not accurate. It was not a  
4 meeting concerning the transcripts, it was a meeting  
5 concerning information sharing.

6 And did I talk to Francine before the  
7 meeting? I'm sure I did, because Francine and I  
8 talked about setting up the meeting.

9 Q In the course of that meeting -- in the  
10 course of that discussion where you talked about  
11 setting up the meeting, did you and Francine Kerner  
12 arrive at a common view about whether the deposition  
13 should be shared with the White House?

14 A I don't remember that we did.

15 Q After the meeting with Ms. Black and  
16 Ms. Kerner, did you have a conversation with  
17 Ms. Kerner in which you discussed Ms. Black's  
18 position?

19 A I don't remember distinguishing between  
20 Ms. Black's position and Ms. Kerner's position at  
21 that meeting. I knew that they both had concerns  
22 about how we were going to get this information in a

1 way that would not either, in fact, or have the  
2 appearance of compromising the integrity of their  
3 inquiry.

4 But I don't think I was distinguishing  
5 between a position that Pat took and a position that  
6 Francine took at that meeting.

7 Q It's your memory that during the meeting  
8 where the subject of information sharing came up  
9 early in July that the position taken by Pat Black  
10 and the position taken by Francine Kerner were  
11 similar?

12 A Yes, they both had reservations about  
13 finding a way to do this that would preserve  
14 the -- the appearance or the integrity of their  
15 inquiry, but I also had the impression that -- that  
16 they recognized that we had a need for information  
17 too.

18 Q Didn't Ms. Black say to you in the meeting  
19 that if you wanted to interview Treasury, she or RTC  
20 people she would expedite that process but she was  
21 not willing to give you the work product of the  
22 Inspector Generals?

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1 A I don't recall that specifically, she may  
2 have.

3 Q As of the meeting you had with Ms. Black  
4 and Ms. Kerner, had Ms. Kerner ever said to you  
5 anything concerning any restrictions she was under on  
6 sharing information within the Treasury Department?

7 A I don't remember that subject coming up.

8 Q What, if anything, did she tell you about  
9 having an ethics wall or a Chinese wall separating  
10 her from other members of the Office of General  
11 Counsel?

12 A I remember learning from her and also from  
13 Steve McHale that there was some issue about her  
14 position in the IG Office and if she was technically  
15 part of the Treasury General Counsel's Office or part  
16 of the Treasury IG's office, but that wasn't relevant  
17 to me.

18 So I don't recall the specifics of it, but  
19 I remember learning at some point, although, she  
20 was -- she had some position or title that connected  
21 her to the IG's office, that somehow or another in  
22 the box on the organizational chart she was in the



1 General Counsel's Office and that there was some  
2 issue about that.

3 Q After this meeting with Ms. Black and  
4 Ms. Kerner, were you in regular contact with  
5 Ms. Kerner?

6 A Yes, and I also spoke to Ms. Black  
7 periodically as well.

8 Q In your contacts with Ms. Kerner, you  
9 discussed scheduling of White House witnesses?

10 A I don't know. There was some investigator  
11 that they had working with them who I think took over  
12 the scheduling, but I may have had discussions with  
13 her about scheduling as well.

14 Q What did you talk to her about?

15 A About scheduling?

16 Q In general.

17 A In general.

18 MR. SACHS: Kerner now we're talking  
19 about?

20 MR. CHERTOFF: Ms. Kerner, yes.

21 THE WITNESS: I'm sure we would have  
22 continued to have conversations about giving them

1 documents, because I don't think they had our  
2 documents until sometime in July, although, I'm not  
3 sure about that, so we would have talked about that.

4 If she had a question about some document  
5 or maybe asking for more legible copy or something  
6 like that, she would have called me, we probably  
7 would have talked some about scheduling.

8 I remember at some point there was some  
9 confusion about who was supposed to appear when and  
10 what kinds of questioning would be permissible and  
11 what the limits were, and I believe I went back to  
12 Francine and I said that I thought that the scope of  
13 the questioning needed clarification and we discussed  
14 that.

15 BY MR. CHERTOFF:

16 Q Now, when you had that discussion with  
17 Francine Kerner, you were representing which views?  
18 Were you representing individual witnesses?

19 A I don't understand.

20 Q Were you representing talking to her on  
21 behalf of an individual witness, or were you  
22 representing the White House as an institutional



1 position on the scope of the question?

2 A I would have been representing the White  
3 House as an institutional position.

4 Q What's your recollection of what that issue  
5 was?

6 A I think it had to do with what the Treasury  
7 IG and the RTC IGs, what they were trying to  
8 accomplish. They were reviewing Treasury conduct,  
9 they were not reviewing White House conduct.

10 And so there was a going in understanding  
11 that they would ask questions about what was  
12 communicated by Treasury or RTC witnesses to the  
13 White House, but that there would not be questioning  
14 of White House witnesses about what was done with  
15 that information subsequently.

16 And this was an understanding we had  
17 because we were looking at that conduct; they weren't  
18 charged with looking at that, they were asked to  
19 review Treasury conduct for Secretary Benson and RTC  
20 conduct.

21 Q Who reached that understanding about the  
22 limit of the scope of the Inspector General

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1 investigation?

2 A I don't remember when the understanding was  
3 made explicit, it was certainly implicit in the way  
4 we were proceeding. But I don't remember when it was  
5 made explicit, it may have been discussed on July  
6 5th, but I don't recall.

7 Q Well, who did you reach an understanding?

8 A I don't recall.

9 Q Was it with Ms. Kerner?

10 A I don't remember.

11 Q Did you have discussions with Ms. Kerner  
12 about scheduling of Treasury Department witnesses?

13 A For IG interviews?

14 Q Yes.

15 A I don't recall any. I may have, but I  
16 don't know why I would have. It may have been  
17 relevant if we were trying to figure out if we could  
18 have -- you know, as you know, we did interview a few  
19 Treasury people, and it may have been -- we may have  
20 talked to her about coordinating schedules in that  
21 connection.

22 Q Did you interview Josh Steiner?

1 A Yes.

2 Q Did you coordinate the schedule with  
3 Ms. Kerner?

4 A I don't recall.

5 MR. WITTEN: Michael, I think everybody on  
6 this side of the table is assuming that when you ask  
7 questions about, quote, unquote, you, you're talking  
8 about Jane Sherburne personally and not the White  
9 House.

10 MR. CHERTOFF: That's correct, Jane  
11 Sherburne.

12 BY MR. CHERTOFF:

13 Q Did you have any discussions with Francine  
14 Kerner about the -- about her participation in  
15 formulating questions that the Inspectors General  
16 should ask witnesses?

17 A Not that I recall.

18 Q Now, in the course of your handling this  
19 matter, did you deal with Mr. Schmalzbach?

20 A Occasionally, yes.

21 Q And what was your understanding of what his  
22 role was with respect to this Inspector General

1 investigation?

2 A I understood that Mr. Schmalzbach worked in  
3 the counsel's office and that his relationship to the  
4 investigation was to try and ensure that it was  
5 proceeding at pace so that it could complete its work  
6 in time for him to do whatever he needed to do to  
7 prepare Secretary Benson.

8 Q Was it your understanding that he was in  
9 some way supervising the investigation or monitoring  
10 the investigation for the Secretary?

11 A The IG versus investigation?

12 Q Yes.

13 A I didn't have an understanding one way or  
14 the other about that.

15 Q Why were you dealing with Mr. Schmalzbach?

16 A I think as the deadline approached toward  
17 the start of the hearings, I dealt with  
18 Mr. Schmalzbach and Mr. McHale almost  
19 interchangeably, I believe, although I'm not certain,  
20 McHale reported to Schmalzbach.

21 Q Did Ms. Kerner tell you that there was a  
22 point in time at which transcripts of the depositions

1 were being furnished to members of the General  
2 Counsel's Office or the members of the Secretary's  
3 office?

4 A I don't know if I learned that from  
5 Ms. Kerner.

6 Q Where did you learn it from?

7 A I don't remember; it would have been either  
8 Kerner or McHale, I believe.

9 Q When did you first learn --

10 A It could have been Schmalzbach.

11 Q When did you first learn that copies of  
12 transcripts of the IG depositions were being  
13 furnished to the Secretary's office?

14 A I don't know the precise date, but we -- we  
15 received the transcripts on the 23rd of July, and I  
16 think I learned that probably two or three days  
17 before that.

18 Q So your recollection is you -- you learned  
19 the transcripts going up to the Secretary's office or  
20 the Office of General Counsel within three days or so  
21 before the 23rd?

22 A I'm not sure about that.

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1 Q Is the 23rd the first time you received  
2 transcripts of interviews of depositions of witnesses  
3 that were taken by the Inspector Generals?

4 A From the Treasury Department, yes.

5 Q When's the first time you received  
6 transcripts of interviews or depositions taken by the  
7 Inspector Generals from somebody else?

8 A I don't remember. At some point prior to  
9 that, we had received a few transcripts from lawyers  
10 representing individuals.

11 Q How did that come about?

12 A I don't recall.

13 Q Did you request it?

14 A I don't know if we requested it or they  
15 offered it.

16 Q These were -- these were depositions taken  
17 by the Inspector General that were supplied to you by  
18 the lawyers for the witnesses?

19 A That's correct, they obtained the  
20 transcripts.

21 Q Did they tell you how they obtained the  
22 transcripts?

1 A I believe -- I don't know if they told me,  
2 I understood that they obtained them from -- from the  
3 IGs.

4 Q And did you understand that they obtained  
5 them from the IGs for the purpose of having them  
6 corrected and submitting corrections to the  
7 deposition transcripts?

8 A I don't think I knew why they had obtained  
9 them.

10 Q Was it your belief that they had been given  
11 the transcripts for purposes of supplying to the  
12 White House?

13 A That that's what the IG intended?

14 Q Yes.

15 A No.

16 Q Was it your understanding that the IG had  
17 specifically intended that the depositions not be  
18 shared with anybody but the witness whose testimony  
19 was in a deposition?

20 A No.

21 Q Did you have any discussions with anybody  
22 about how the circumstances under which the

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1 depositions had been obtained?

2 A I don't recall a specific discussion with  
3 anyone, although, I believe we inquired whether any  
4 restrictions had been placed on the use or the  
5 dissemination of the transcript when it had been  
6 provided to the individual and had been told no.

7 Q Who told you that?

8 A I can't remember.

9 Q Was it a lawyer?

10 A Probably, because we would have been having  
11 these discussions with lawyers.

12 Q When you read the transcripts, had  
13 you -- at the end of the transcripts, did you observe  
14 that there was typically a request made of the  
15 witness to keep the -- the testimony confidential?

16 A I never read a transcript.

17 Q Did you direct someone to read a  
18 transcript?

19 A Yes.

20 Q Did someone come to you and say in  
21 substance, you know, Jane, at the end of the  
22 depositions they ask the witnesses to keep these



1 confidential?

2 A I don't know to this day that that's true,  
3 no one ever said that to me.

4 Q Now --

5 MR. SACHS: Excuse me.

6 (Pause.)

7 BY MR. CHERTOFF:

8 Q Now, when you received --

9 MR. BEN-VENISTE: Maybe for purposes of  
10 clarity, you may refer the witness to what does  
11 appear at the end of each transcript.

12 MR. CHERTOFF: I'm going to do it very  
13 shortly, before I just want to hit a couple other  
14 points.

15 BY MR. CHERTOFF:

16 Q At the time that you -- withdrawn.

17 You received Treasury documents to use in  
18 connection with the White House internal review;  
19 correct?

20 A At some point, yes.

21 Q And when did you obtain them?

22 A I don't remember.

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1 Q Early in July?

2 A We had reviewed them already in May and  
3 then, you know, in that sort of continuing process  
4 that we talked about earlier, and at some point we  
5 got copies, and I don't -- I think it was after the  
6 internal review had started.

7 Q Was it at the beginning of July?

8 A I don't remember.

9 Q Was it before you got the transcripts?

10 A I don't remember.

11 Q Did you -- when you received the documents  
12 from Treasury, were there any restrictions placed  
13 upon your use of the documents?

14 A I don't recall one way or the other.

15 Q Did Treasury ask you not to show the  
16 documents to the individual witnesses' counsels?

17 A I don't remember that.

18 Q I'm going to show you a -- it's been marked  
19 Bates Number 534, we'll call it Exhibit 534, it's  
20 actually a message for Francine Kerner. It's dated  
21 July 13th, and it's from you, and it has a little  
22 message there that says anxious to talk with you.

1 Do you remember what you were anxious to  
2 talk Ms. Kerner about on July 13th?

3 MR. SACHS: Wait a minute so we can  
4 understand what this is.

5 MR. CHERTOFF: It's a message from  
6 Francine.

7 MR. SACHS: This is a Treasury document  
8 presumably; right?

9 MR. CHERTOFF: Correct; that records a  
10 message for Francine Kerner that purports to be from  
11 Jane Sherburne.

12 MR. SACHS: On July 13th.

13 THE WITNESS: July 13th.

14 MR. CHERTOFF: 13th.

15 THE WITNESS: No.

16 BY MR. CHERTOFF:

17 Q And it's at 10:53 p.m. It seems to be  
18 circled there; does that ring a bell?

19 A Well, I know that there were many occasions  
20 when we were working way past 10:53 p.m. during that  
21 time period, so, no, that does not ring a bell.

22 Q Is that your Number 456-1156?

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1 A Yes.

2 Q Now, did you have conversations with  
3 Mr. Schmalzbach about getting the transcripts of the  
4 Inspector General depositions?

5 A I believe so.

6 Q And why did you talk to him about it?

7 A I remember that we had an understanding  
8 that we would be receiving transcripts after the  
9 completion of all of the IG depositions.

10 Q And with whom did you have that  
11 understanding?

12 A I don't know how it evolved, but that's  
13 where we ended up, and I don't -- it was an  
14 understanding with -- whether it was with the IGs and  
15 the Treasury folks, I'm not sure.

16 And at some point, I became aware that the  
17 depositions were completed and we hadn't received the  
18 transcripts and I would have spoken to Francine about  
19 that and also I believe I spoke to Ken Schmalzbach  
20 about that.

21 Q Well, I'm going to -- I want to direct your  
22 attention specifically to July 15 time frame, I'm

1 going to show you what is designated as Bates Number  
2 1145, which we'll use as the identifying exhibit  
3 number, which is a portion of a notebook kept by Ken  
4 Schmalzbach, which purports to record a conversation  
5 with you that occurred on July 15, 1994.

6 And I want to see if you can recall this  
7 specific conversation, and I will read it into the  
8 record, proffer as to White House witnesses, T.  
9 transcripts.

10 MR. SACHS: There's a question mark.

11 BY MR. CHERTOFF:

12 Q Question mark, T. Transcripts -- -- should  
13 have Monday night; does WH, White House, want before  
14 witnesses complete SBC interviews.

15 Does that notation refresh your  
16 recollection about a particular call you had on July  
17 15th, 1994 trying to find out when the Treasury  
18 transcripts would be available?

19 A No.

20 Q Did you have a conversation with  
21 Mr. Schmalzbach before the transcripts were turned  
22 over to you in which you were trying to determine

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1 when they would become ready to be turned over?

2 A Yes, I think I just described that.

3 Q And your recollection is you had that  
4 conversation only after the depositions had  
5 been -- had been completed?

6 A I'm not sure, it could have been when we  
7 thought there were only one or two left and wanted to  
8 figure out when we might expect to receive the  
9 transcripts after that.

10 Q Now, is it your understanding that  
11 Mr. Schmalzbach had control of the transcripts?

12 A No.

13 Q So why did you talk to him about it?

14 A I think I had an understanding that he had  
15 some knowledge about timing, I don't think I  
16 understood that he had control.

17 MR. SACHS: Michael, are these documents  
18 going to be exhibits to the deposition?

19 MR. CHERTOFF: We don't append them to the  
20 deposition. We identify them for the record and  
21 ultimately I think everything will be part of the  
22 record.

1 MR. SACHS: I understand. I'm speaking in  
2 the near term, will they be available for the  
3 witness's review prior to her possible testimony  
4 before the committee?

5 MR. CHERTOFF: I mean I don't think it's  
6 ever come up, I guess we can make it available.

7 MR. SACHS: I would request that -- it may  
8 be sufficient that you've identified it on the record  
9 and that may be all we need, but, for example, there  
10 are other -- there's other data on that piece of  
11 paper that, for example, we may want to see, for  
12 example, the top it says Jane S.

13 MR. CHERTOFF: 7/15/94.

14 MR. SACHS: Right. My only point is I'm  
15 going to request that any documents shown to the  
16 witness be available for her review.

17 MR. CHERTOFF: Sure.

18 MR. SACHS: Okay.

19 BY MR. CHERTOFF:

20 Q When did you -- withdrawn.

21 Did you begin to prepare a document that  
22 was a draft chronology or a draft chronological

1 discussion of the facts that were being developed in  
2 the course of your internal review?

3 A Yes.

4 Q And did you get information from that  
5 document strictly from your internal review, or did  
6 you also put into that document information you  
7 gained from other sources like transcripts from the  
8 Inspector General's depositions or the other product  
9 of the Inspector General's investigation?

10 A At what point in time?

11 Q At any point in time.

12 A The initial preparation of the document  
13 was -- I did with the benefit of interview notes from  
14 our own internal review, and that is the document,  
15 and that's the one you got in front of you there,  
16 that eventually became transformed into the  
17 chronology that was attached to Lloyd Cutler's  
18 testimony and was part of his testimony at the  
19 hearings.

20 In the process of transforming the document  
21 in front of you to Lloyd's testimony, Sharon Conoway  
22 had reviewed the IG transcripts and annotated the



1 document that I had prepared with information that  
2 she had from the IG transcripts.

3 Q Is she the person within the White House  
4 Counsel's Office that was designated to review the IG  
5 transcripts?

6 A That's correct, she was the detailee with  
7 the State Department that we had working with us.

8 Q When you prepared -- withdrawn.

9 Did you in the course of your own interview  
10 review Roger Altman?

11 A Yes.

12 Q Did you interview Jean Hanson?

13 A No.

14 Q As of the time -- well, let me show you  
15 page 8081S for identification and ask you whether  
16 this is the first page of the document that you've  
17 just referred to as your draft chronology.

18 (Witness reviews the document.)

19 THE WITNESS: That looks like the first  
20 page.

21 BY MR. CHERTOFF:

22 Q Now, was this document prepared on

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1 the -- the typewritten portion of the document  
2 prepared on July 17th, 1994?

3 A I'm not sure. Is this -- is this a header  
4 that appears on all the pages?

5 Q No, it only appears on the top page.

6 A Then I probably did start preparing this on  
7 the 17th. And, as I recall, I think I stayed up all  
8 night and did this in one night.

9 Q The typed portion of the document?

10 A I believe so, I think the date -- the 17th  
11 is probably correct.

12 Q How did you get the information in this  
13 document on page 1 which is next to where it says  
14 Hanson?

15 A I think the footnote says we've only spoken  
16 to Hanson's lawyers, we've not interviewed Hanson  
17 ourselves. So we obtained that information from a  
18 conversation with her lawyers.

19 Q Did you have any other sources of  
20 information for that entry under Hanson?

21 A For the typewritten entry?

22 Q Yes.

1 A Not that I recall.  
2 May I see that entry again, let me just  
3 make sure, I didn't read the entry before I  
4 answered.

5 (Pause.)

6 Thank you.

7 I would have only learned that from  
8 Hanson's lawyers.

9 BY MR. CHERTOFF:

10 Q Now, just to help fix this in time for you,  
11 July 23rd was a Saturday, so you can work back from  
12 that.

13 During the week before on July 28th, did  
14 you have a conversation with Ms. Kerner in which you  
15 asked to see the White House -- asked to see the  
16 transcripts of the Inspector General interviews?

17 A I don't recall a specific conversation.

18 Q Did you offer in the course of the  
19 conversation with Ms. Kerner at a time before you  
20 actually got the transcripts to look at the  
21 transcripts and tell the people -- tell Ms. Kerner  
22 what significant -- where significant

1 inconsistencies, if any, exist between the IG  
2 transcripts and your interviews?

3 A I don't remember that.

4 Q Did you ever suggest to Francine Kerner  
5 that by reviewing the transcripts of the deposition  
6 interviews, you would be able to communicate to her  
7 where significant inconsistencies existed between the  
8 IG deposition transcripts and the interviews?

9 A I don't have a specific recollection of  
10 that, but it's consistent with the way I think we  
11 were all approaching that, that we all recognized  
12 that we were trying to find the truth about what  
13 happened, and so if I identified inconsistencies,  
14 that suggested there was an issue about what actually  
15 happened, I may have talked to Francine about drawing  
16 those to her attention. But I don't have a specific  
17 recollection of doing that.

18 Q When you did your interviews, did you  
19 prepare interview notes?

20 A Yes.

21 Q And did you type them up into interview  
22 memos?

1 A No.

2 Q Did you offer to furnish your notes to  
3 Ms. Kerner?

4 A No.

5 Q Did you offer to furnish your notes to the  
6 Inspector General's office?

7 A Not that I recall.

8 Q So the manner which you suggested you could  
9 share information was one in which you would receive  
10 the transcripts and then identify back to the  
11 Inspector General's or Ms. Kerner where there were  
12 inconsistencies that you found in the transcripts?

13 A I didn't say I suggested that. I said the  
14 notion that you described is consistent with the way  
15 we were approaching the review and the tasks that we  
16 were all faced with, but I don't have a recollection  
17 of suggesting that.

18 Q Did you ever suggest to Ms. Kerner or the  
19 Inspectors General that you would provide them with  
20 your notes or records of any reason they could tell  
21 you whether there were inconsistencies?

22 A I don't believe so; although, I think in

1 those early discussions about how we proceed with  
2 this information sharing that they may have said that  
3 there was some -- there may have been some talk that  
4 in lieu of getting White House witnesses for their  
5 depositions that maybe we would share with them  
6 our -- the substance of the interviews that we had  
7 conducted or make some sort of a proffer about what  
8 they had told us, but I don't remember any more than  
9 that.

10 Q Well, did you ever think about suggesting  
11 that you would furnish your notes or records of  
12 interviews to the Inspectors General so they could  
13 have the benefit of those in determining whether  
14 there were any inconsistencies with their own  
15 depositions?

16 A I don't recall thinking about that. Our  
17 interview notes were handwritten, and I don't think  
18 it would have been a practical thing to try and  
19 undertake. And it was clear that we weren't going to  
20 have time to do formal interview memoranda, so the  
21 suggestion doesn't sound like it was practical enough  
22 to even think of.



1 Q Did you have a meeting with OGE during the  
2 week of July 18th, 1994?

3 A I believe so.

4 Q Where was the meeting?

5 A In Mr. Cutler's office, although, I  
6 hesitate, because there were a few meetings that I  
7 had with OGE at OGE's offices. But I think the one  
8 on the 18th or that week whenever that was was  
9 the -- was one that occurred in Mr. Cutler's office.

10 Q What was the purpose of that meeting?

11 A The purpose of the meeting I believe was to  
12 review the state of our factfinding and describe for  
13 them our preliminary conclusions about what that  
14 meant as far as whether any standards of conduct had  
15 been violated and to determine if they concurred  
16 based on the facts as we understood them with our  
17 conclusion about the application of the standards of  
18 conduct.

19 Q And what did they say?

20 A I believe they told us they thought we were  
21 on the right track, but I don't believe there was any  
22 sort of formal conclusion, and I don't think we had

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1 completed -- as a matter of fact, I know we hadn't  
2 completed our factfinding because we didn't have the  
3 IG transcripts yet.

4 Q Why did you want to meet with them?

5 A Because we didn't have the factfinding yet,  
6 because we knew hearings were going to start on July  
7 26th and time was running out, we didn't have the  
8 transcripts yet. But we needed some sort of guidance  
9 or direction from them, and we thought we could  
10 advance the ball and start the process if we brought  
11 them up to date on where we were at that point in our  
12 inquiry.

13 Q What guidance did they give you?

14 A I don't recall specifically. I do remember  
15 leaving the meeting thinking that they didn't  
16 identify any standard of conduct that we had  
17 overlooked or had been concerned with the direction  
18 we were taking or our initial preliminary conclusions  
19 that if -- if the facts held up as we were presenting  
20 them, that our initial conclusions about the -- any  
21 potential violations of the standards of conduct  
22 were -- were correct.



1 Q Did you discuss with them either in this  
2 meeting or at any other earlier meeting your desire  
3 to have transcripts of the Inspector General  
4 depositions?

5 A I don't remember discussing that with OGE.

6 Q Why didn't you talk about it with them?

7 A I don't know.

8 Q Did you ask them to furnish you with their  
9 copies of the Inspector General depositions?

10 A I don't remember making that request.

11 Q Did you know that they were getting copies  
12 of the Inspector General depositions?

13 A I don't know when they got them. I think  
14 they got them all in one big bulk shipment at some  
15 point, but I don't know that.

16 Q Where did you get that idea?

17 A Probably from Francine.

18 Q Did you -- what's your impression of the  
19 manner in which the Secretary of the Treasury got the  
20 transcripts?

21 A I don't have any impression.

22 Q Now, I didn't want to forget what

1 Mr. Ben-Veniste had put into the record regarding the  
2 transcripts which were taken by the Inspector  
3 General -- well, I'm going to read from Inspector  
4 General transcript of Beth Noland, page 32 of the  
5 transcript, which is Bates number 9579 --

6 MR. WITTEN: Is that the White House got  
7 them?

8 MR. CHERTOFF: It's S9579, it means it was  
9 produced by the White House.

10 BY MR. CHERTOFF:

11 Q I will ask you, Ms. Sherburne --

12 MR. SACHS: The issue is, is this -- are  
13 you suggesting that this is a deposition -- this is a  
14 transcript received by the White House from a source  
15 other than Treasury, in other words, from --

16 MR. CHERTOFF: Yes. I'll get into that in  
17 a second.

18 MR. SACHS: Fine.

19 BY MR. CHERTOFF:

20 Q Page 32, S9579, Mr. Cocoa, we appreciate  
21 your coming and we ask that you don't discuss what we  
22 have discussed with you here with anyone else at this

1 time, because as you may know, there are other  
2 investigations other inquiries going on right now.

3 It doesn't mean that you are not to answer  
4 anybody's questions, it's just that we would like to  
5 finish up this week and basically that is all we are  
6 asking.

7 Did you -- did that statement or statements  
8 similar to that come to your attention when you got  
9 transcripts from the lawyers for various witnesses  
10 that were deposed by the Inspector General?

11 A I don't remember that they did.

12 Q Now, this -- for the record, this is  
13 beginning at S9578, it's Beth Noland --

14 A Could you just for the record read the  
15 answer to that question?

16 Q Okay. Appearances, Randall for the  
17 interviewee Beth Noland, Randall Turk.

18 Did Mr. Turk send you a copy of the  
19 Inspector General deposition when he received it from  
20 the Inspector General?

21 A I think you just said that he did, so I --

22 Q I represented it, but now I think I want to

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1 get it from you. Did he?

2 A I don't remember that he did.

3 Q Well, S9547 is a cover letter from Miller  
4 Cassidy, Larroca, and Luwin to Sean Johnston from  
5 Randall Turk; we are sending 41 pages including this  
6 cover sheet, please call Doreen Green at 202 whatever  
7 if there are any problems with the transmission of  
8 this document.

9 Does that refresh your memory that --

10 MR. BEN-VENISTE: Hang on.

11 BY MR. CHERTOFF:

12 Q Did Miller, Cassidy send you that?

13 MR. BEN-VENISTE: Excuse me, had you  
14 finished with the issue of what was proposed to the  
15 witness?

16 MR. CHERTOFF: Yes, for the time being.

17 MR. BEN-VENISTE: Well, I would suggest  
18 that's not really fair.

19 MR. CHERTOFF: Well, let's get an answer to  
20 this question and we'll go back to it.

21 THE WITNESS: If your question is does this  
22 refresh my recollection about receiving it, yes.

1 This document says we received it, I have no reason  
2 to believe that this document is inaccurate.

3 MR. CHERTOFF: Is there something that,  
4 Mr. Ben-Veniste, that I've read from page 32 that I  
5 left -- that I left out?

6 MR. BEN-VENISTE: No, but there's a  
7 suggestion that this was said in the same way in all  
8 cases, I think that would be an unfair  
9 generalization, I would refer you to 9420 --

10 MR. CHERTOFF: We'll get to 9420.

11 MR. BEN-VENISTE: -- for example.

12 MR. CHERTOFF: Well, we'll work our way  
13 into that, and if I miss it, I'm sure you'll bring it  
14 up.

15 BY MR. CHERTOFF:

16 Q How did Mr. Turk come to send this to you?  
17 Did he just send over the transmission?

18 A I don't remember.

19 Q Did you have discussions with counsel for  
20 the individual witnesses who were at the White House  
21 requesting them to send copies of the deposition  
22 transcripts to you?

1 A I don't remember specific conversations but  
2 we may have.

3 Q Did Mr. Cutler have such conversations?

4 A I don't know.

5 Q Did anybody working for you at the White  
6 House Counsel's Office working have those  
7 conversations?

8 A I don't know. It looks from that  
9 transmittal sheet as if Sean Johnston may have.

10 Q Now, Sean Johnston's position was what?

11 A Legal assistant.

12 Q She's not a lawyer?

13 A No.

14 Q So is it fair to say she would not have  
15 made the decision to request these documents and  
16 obtain them from private counsel?

17 A I think that's probably right.

18 Q During the occasions you were discussing it  
19 with anybody from Treasury to get Treasury to send  
20 you copies of transcripts, did you ever indicate to  
21 people that you talked to at Treasury that you were  
22 getting copies of the transcripts from witnesses?

1 A Yes.  
2 Q Who did you tell that to?  
3 A I believe I told that to at least Steve  
4 McHale, and there may have been others.  
5 Q When did you tell it to Mr. McHale?  
6 A I'm not sure when I would have told him the  
7 first time. I know we discussed it in connection  
8 with the letter that he sent over with the  
9 transcripts on July 23rd.  
10 Q What did he say to you about it?  
11 MR. SACHS: What did he say to her?  
12 BY MR. CHERTOFF:  
13 Q Yes. What did Mr. McHale say to you when  
14 the subject came up on July 23rd?  
15 A Well, I don't think my answer to that  
16 question would make any sense unless I told you what  
17 I said to him.  
18 Q Okay, that's fine. I thought you had told  
19 us, go ahead.  
20 A Mr. McHale had told me that he would  
21 provide the transcripts if we agreed that we would  
22 not show them to other witnesses, and he put certain

1 restrictions on the transcripts. And at that point,  
2 I said to him, well, you know we've received these  
3 transcripts from some of the lawyers for the  
4 individual witnesses and certainly your restrictions  
5 can't apply to those, and I believe he acknowledged  
6 that that was the case.  
7 Q What did he acknowledge was the case, that  
8 you had received them or the restrictions wouldn't  
9 apply?  
10 A Well, he knew that we were receiving them,  
11 I believe before that time, but the  
12 restrictions -- that the restrictions would not -- he  
13 couldn't impose restrictions on transcripts that we  
14 had received from sources other than Treasury.  
15 Q What gives you the impression he knew  
16 before this conversation on the 23rd of July that you  
17 were receiving transcripts from the witnesses?  
18 A It wasn't anything I was hiding from him,  
19 and I believe that was something that we had  
20 discussed prior to that time.  
21 Q With who?  
22 A I don't know, Treasury people, it could



1 have been McHale.

2 Q Was it discussed with Ms. Black?

3 A I don't recall.

4 Q Was it discussed with Ms. Kerner?

5 A I don't have a specific recollection of  
6 discussing it.

7 Q But you do have a -- some recollection of  
8 having a discussion with someone at Treasury before  
9 July 23rd about the fact the White House was  
10 receiving transcripts from individuals?

11 A Sure.

12 Q Did that discussion occur before the  
13 transcripts were received from the individuals or  
14 only after they had been received?

15 A I don't remember.

16 Q And is it your testimony that the person  
17 you spoke to about this at Treasury before July 23rd  
18 raised no objection about it?

19 A I believe that's right. I don't remember  
20 anyone registering an objection to it. I don't  
21 remember this being an issue.

22 Q The next deposition beginning at S9360 and

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1 S9361 is a letter from Dickstein, Shapiro and Morin  
2 to Francine Kerner.

3 Do you recognize that letter as having been  
4 part of a deposition that was furnished to you by  
5 somebody other than the  
6 Treasury -- withdrawn -- someone before July 23rd,  
7 1994?

8 A I'm just looking at the document, so I'm  
9 not listening to your question, let me --

10 Q All right, take a look.

11 (Witness reviews the document.)

12 MR. SACHS: What was the question?

13 BY MR. CHERTOFF:

14 Q All right. The question is, does  
15 this -- do you recognize this letter as having come  
16 to you along with an accompanying deposition of  
17 Maureen Rynn from the witness?

18 A No.

19 Q Were -- where did you get this?

20 A I got it from you.

21 Q Originally.

22 A I don't mean to be cute, but I don't -- I

1 don't have any doubt that it -- I see it's got the S  
2 number which is our Bates number that this is  
3 something that we were provided -- I actually don't  
4 know if we were provided -- this doesn't say  
5 that -- that we get the transcript. If this was --

6 Q This is the transmittal attached.

7 A The transmittal --

8 Q The transmittal attached with the S9362  
9 through S9382.

10 A Okay. Then I have no reason to believe  
11 that this isn't something that was provided to the  
12 White House by Mr. Simon.

13 MR. CHERTOFF: I notice, Mr. Sachs, you're  
14 turning to the page I was about to turn to.

15 MR. SACHS: That's because we both come  
16 from the same stock.

17 MR. CHERTOFF: So I will read it into the  
18 record.

19 BY MR. CHERTOFF:

20 Q It's Page 17, Mr. Hurly -- Ms. Hurly, on  
21 the record, we just wanted to thank you for coming  
22 today. We know your schedule is very busy, we would

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1 ask that you keep what we discussed in confidence,  
2 and we're not asking that you not cooperate with  
3 other ongoing investigations.

4 THE WITNESS: Certainly; I'm appreciative  
5 of the opportunity to let the record reflect this and  
6 thank you for accommodating me on a Saturday.

7 Let me ask you whether you recall getting a  
8 transcript from Mr. Sloan's attorney directly?

9 A Yes.

10 Q And that was Mr. Romantosky?

11 A Yes.

12 Q How did that come to you?

13 A I don't recall. I think -- as I've told  
14 you, I didn't read any of these transcripts, so I  
15 wasn't -- I don't recall how we received them and  
16 when we received them from the individual lawyers.

17 Q Okay. I'm going to direct your attention  
18 to page 26, it's 9505. I just want to make sure you  
19 have the same -- actually I think this might not be a  
20 complete deposition.

21 MR. CHERTOFF: Off the record for a  
22 moment.

(Discussion off the record.)

BY MR. CHERTOFF:

Q Do you remember Mr. -- who Mr. Snyder represented?

A Bruce Lindsey.

Q And did Mr. Lindsey provide you with a copy --

MR. SACHS: Excuse me, what was the answer, Bruce?

THE WITNESS: Bruce Lindsey.

BY MR. CHERTOFF:

Q Did Mr. Lindsey or his lawyer provide you a copy of his deposition transcript?

A I don't remember.

Q Let me show you, and I apologize, what is a portion of a deposition that was produced to us, it's S9450 through 9506, which indicates Ms. Dyer and Mr. Snyder as being the lawyers who were the people who were asking you questions, and ask you whether that refreshes your memory that you had gotten a transcript from Mr. Lindsey or his attorney.

MR. SACHS: The witness has said she never

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read any transcripts. I don't see how it can refresh her recollection.

MR. CHERTOFF: It may just refresh your recollection.

MR. SACHS: So might looking at my shoe, too, but it isn't --

MR. CHERTOFF: I can ask that question, and it works sometimes.

THE WITNESS: Do you know if we produced all the IG transcripts to you?

What I don't know from this, Mike, I don't have -- if you tell me that there's something that says that we got this transcript from Mr. Lindsey, we did.

I'm just worried that by me relying on these S numbers that -- that they're wrong, because I believe there was some talk about providing you all of the transcripts that we got from the -- from the IG.

BY MR. CHERTOFF:

Q If you're not certain, Jane, then say you don't know, I don't want to get you into trouble

1 unintentionally.

2 A There's a cover and if there's a  
3 transmittal letter --

4 Q I don't have a transmittal letter.

5 A This one is --

6 Q Did you get a transcript from Mr. Ickes  
7 from his attorney Mr. Bennett?

8 A I don't remember.

9 Q Let me show you what is S9383, which is a  
10 fax cover sheet misspelling your name, that appears  
11 from the fax line to be generated from Skadden, Arps  
12 on July 22nd, 1994.

13 Does that help you ascertain that you  
14 received a copy of that transcript from Mr. Ickes'  
15 attorney on July 22nd?

16 A Is the transcript 38 pages or 37 pages?

17 Q I'll show you S9340 through 9420 which is  
18 the accompanying transcript.

19 A It's got the fax footprint on it?

20 Q Yes.

21 A Then I assume we received this from  
22 Mr. Ickes' attorney on July 22nd.

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1 Q Do you know how that came about?

2 A No.

3 Q Now, I want to direct your attention to the  
4 course of -- throughout the course of this  
5 deposition, there are hand --

6 MR. SACHS: Ickes' deposition?

7 BY MR. CHERTOFF:

8 Q Yes, Ickes deposition, which begins at  
9 S9340, there are brackets or lines drawn along  
10 certain passages.

11 Do you know who drew those lines?

12 MR. BEN-VENISTE: Off the record a minute.  
13 (Discussion off the record.)

14 THE WITNESS: No.

15 BY MR. CHERTOFF:

16 Q Do you know whether the deposition came to  
17 you that way?

18 A I don't know. I don't remember ever seeing  
19 it.

20 MR. SACHS: Off the record.

21 (Discussion off the record.)

22 BY MR. CHERTOFF:



1 Q Again, to address Mr. Ben-Veniste's point  
2 at S9420, which is the concluding page of that  
3 deposition, Ms. Hurley, he says, we'd also like to  
4 request just simply request that you keep what was  
5 discussed here in confidence.

6 Certainly there are other ongoing  
7 investigations, and we're not asking that you not  
8 cooperate with those, that's all, and then Mr. Coco  
9 says thank you.

10 Did you know that Ms. Kerner and other  
11 people in the General Counsel's Office were involved  
12 in editing the draft IG report that was to go to the  
13 Office of Government Ethics?

14 A No.

15 Q Did you ever have any discussion with  
16 Ms. Kerner where she indicated that she or anybody  
17 else in the Office of General Counsel was having  
18 input into that report?

19 A Into the report that the --

20 Q That the IGs were sending to OGE.

21 MR. PORTNOY: I'm sorry, was Ms. Kerner or  
22 anyone else in the Office of General Counsel?

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1 BY MR. CHERTOFF:

2 Q Did you ever have a discussion with  
3 Ms. Kerner that she said, either she or someone in  
4 the Office of General Counsel was having input into  
5 the report that the IGs were going to send to the  
6 Office of Government Ethics?

7 MR. PORTNOY: I just want to clarify, did  
8 someone else suggest Ms. Kerner was for the purpose  
9 of this investigation part of the Office of General  
10 Counsel?

11 MR. CHERTOFF: She was part of the Office  
12 of General Counsel.

13 MR. PORTNOY: I'm not sure that was  
14 established, but I just wanted to make that record.

15 THE WITNESS: I didn't understand that she  
16 was part of the Office of General Counsel, and I  
17 didn't frankly even know that the IG was preparing a  
18 report for OGE.

19 BY MR. CHERTOFF:

20 Q Did you know that they were preparing a  
21 chronology or some kind of factual submission?

22 A No.

1 Q Did you ever seek to have input into any  
2 submission or report that the Inspectors General were  
3 going to submit to OGE?

4 A No.

5 Q How did you think the Inspectors General  
6 were going to get the product of their investigation  
7 before the Office of Government Ethics?

8 A I understood they were giving them the  
9 transcripts.

10 Q Did you think that was all they were going  
11 to give them?

12 A I think that's what I did understand.

13 Q Where did you get the understanding from?

14 A I don't recall.

15 Q Now, on July 23rd, did you finally receive  
16 from the Treasury Department itself a set of the  
17 transcripts of the Inspector General's depositions?

18 A Yes.

19 Q And how did that come about?

20 MR. WITTEN: How did she physically receive  
21 them or what?

22 BY MR. CHERTOFF:

1 Q Now, how did it come about that you  
2 received them?

3 A Well, there came a time when we understood  
4 that all the depositions had been completed.

5 Q Where did you get that information from?

6 A I don't remember. The hearings were  
7 approaching, we didn't have the transcripts, and I  
8 had made phone calls to various people in Treasury  
9 and the IG inquiring about when we were to get the  
10 transcripts.

11 It was clear that there was some sort of a  
12 holdup, I didn't know what it was, so at some point I  
13 went to Lloyd, I had been advising him about the  
14 status of our receipt of the transcripts that we  
15 hadn't gotten them yet, and we were becoming  
16 increasingly concerned that we had forgone  
17 opportunities to interview people and reliance on an  
18 understanding that we would get the transcripts and  
19 that that time was running out.

20 He had to make a report to the President  
21 and complete his testimony to Congress, and we still  
22 didn't have critical information.

1 And so when I felt as if I had exhausted  
2 all avenues to try and dislodge the transcripts, I  
3 suggested or talked to Lloyd about the possibility of  
4 contacting Secretary Benson, and my understanding is  
5 that he did talk to Secretary Benson.

6 I don't remember what day, I suspect it was  
7 the 22nd, because I recall that very shortly after  
8 that conversation we obtained the transcripts.

9 Q You said you had been operating in reliance  
10 upon an understanding that you would get the  
11 transcripts.

12 With who did you at the White House have  
13 that understanding?

14 A I believe we had the understanding with the  
15 IGs.

16 Q When did that understanding occur?

17 A Sometime after July 5th and before July  
18 23rd.

19 Q And how did you learn about this  
20 understanding?

21 A I don't recall precisely.

22 Q Did you enter into the understanding with

1 one of the IGs?

2 A I don't remember how we -- how the  
3 discussion evolved. I know at some point we  
4 recognized that we were not going to interview these  
5 people because we were going to get the transcripts.

6 Q When you say we recognized it, who's the  
7 "we"?

8 A We would have been the White House, Lloyd,  
9 myself. And I don't -- I don't remember the precise  
10 moment in time that we had that understanding.

11 Q When you say that understanding, you mean  
12 the understanding within -- yourself within the White  
13 House or an understanding with some responsible  
14 person at Treasury?

15 A Or the IG?

16 Q Well --

17 A I mean we clearly had an understanding with  
18 somebody outside of the White House or we wouldn't  
19 have relied on it and lost the opportunity to  
20 interview these people ourselves. And so, you know,  
21 I don't recall precisely with whom that understanding  
22 was reached, but --

1 Q Was it with the Secretary of Treasury?

2 A I don't know.

3 Q Did Lloyd Cutler have an understanding  
4 between himself and the Secretary of the Treasury  
5 about the facts that you were going to get the  
6 transcripts?

7 A He may have, I don't know.

8 Q Of your own -- this was -- getting the  
9 transcripts was an important point here; right?

10 A Absolutely.

11 Q You had to get ready for the hearing;  
12 correct?

13 A Yes.

14 Q And in your mind, an important part of  
15 getting ready for the hearings was having an  
16 understanding of what people who you had not had the  
17 opportunity to interview had said about the subject  
18 matter; correct?

19 A I think it was more important from the  
20 perspective of an internal review. We were trying to  
21 make conclusions about the conduct of White House  
22 officials, whether there had been improper contacts,

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1 what contacts had occurred and what we needed to know  
2 before we could complete our internal review and draw  
3 conclusions about that conduct, whether there was  
4 anyone sitting at RTC who said that someone from the  
5 White House had called them up and put pressure on  
6 them with respect to the Madison investigation.

7 We didn't have that critical piece of  
8 information, so we could not complete our work.

9 Q So in order to address this critical  
10 concern, you made repeated requests to people at the  
11 Treasury about when you could get the transcripts;  
12 correct?

13 A That's correct.

14 Q You talked to Ms. Kerner; right?

15 A About when --

16 Q You could get the transcripts.

17 A We could get the transcripts, yes.

18 Q You talked to Mr. Schmalzbach?

19 A Yes.

20 Q With which person that you personally spoke  
21 did you get an agreement on behalf of Treasury or the  
22 Inspectors General that you were going to get the



1 transcripts?

2 A I don't remember a handshake on this. I

3 remember --

4 Q Do you remember a nod --

5 A -- reaching an understanding.

6 Q With whom?

7 A I don't recall precisely with whom.

8 Q Was this a point that was important enough

9 for you to document with a letter?

10 A In an ideal world, perhaps, but we were  
11 operating under time constraints that didn't permit  
12 the luxury of documenting understandings that we  
13 thought we had reached with people in good faith.

14 Q Well, who is the person with whom you  
15 personally reached the understanding?

16 MR. SACHS: I think it's been asked and  
17 answered, Michael.

18 BY MR. CHERTOFF:

19 Q If you know.

20 A I think I said I don't recall.

21 Q And do you know -- again, I'm asking you  
22 again, did Mr. Cutler have an understanding with

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1 someone he reached and told you about?

2 A He may have, I don't recall.

3 Q Now, your recollection is that sometime  
4 shortly before July 23rd, perhaps on July 22nd, you  
5 went to Mr. Cutler and asked him to approach his  
6 secretary about getting you the transcripts;  
7 correct?

8 A I think I went to Mr. Cutler and told him  
9 that we still didn't have the transcripts, describe  
10 for him -- we were in constant contact so he would  
11 have been aware of this on a daily basis, anyway, but  
12 describe for him the steps that I had undertaken, who  
13 I had spoken to in order to try and determine what  
14 the holdup was and when we could receive these, and  
15 then talk to him about what ought to be the next step  
16 and whether it was time or necessary for him to place  
17 a call to Secretary Benson.

18 Q And what did he say?

19 A He placed a call.

20 Q Did he say about any earlier discussions he  
21 had with Secretary Benson?

22 A I don't remember.

1 Q And did he tell you what happened in the  
2 call?

3 A Yes.

4 Q What did he tell you?

5 A He told me that he believed we would be  
6 getting the transcripts.

7 Q Is that all he said?

8 A That's all I recall.

9 Q What's the next thing that happened with  
10 respect to the transcripts?

11 A I had a telephone conversation with Steve  
12 McHale.

13 Q When?

14 A I don't know if was the 22nd or the 23rd,  
15 the letter's dated the 23rd, but it would have been  
16 after the conversation that Lloyd had with -- with  
17 the Secretary in which he told me that we would be  
18 receiving the transcripts.

19 Q And what did Mr. McHale say to you?

20 A I think I've described that conversation  
21 already to some extent where we --

22 Q Give us the full conversation. That's

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1 true, you gave us a portion of it, but let's get the  
2 whole conversation.

3 A I believe he said that they were preparing  
4 the transcripts to send over to us and that he wanted  
5 to send them with the transmittal letter that would  
6 reflect an understanding that we would only -- that  
7 we would not show the transcripts to witnesses or  
8 their lawyers until after the restriction had been  
9 lifted or something to that effect, it's spelled out  
10 in the letter.

11 Q I'm going to show you a copy of 6877 for  
12 identification which is a copy of a letter to you  
13 dated July 23rd, 1994.

14 Is this a letter about which you've just  
15 testified?

16 A Yes.

17 Q Now, it says here in the second paragraph,  
18 as we discussed, these transcripts are being provided  
19 to you solely to assist you in the preparation for  
20 Mr. Cutler's testimony before the House and Senate  
21 and Bank Committee hearings.

22 You have agreed that the transcripts we are

1 providing to you with this letter will not be  
2 disclosed publicly or shown to individuals other than  
3 Mr. Cutler who may be called as witnesses by either  
4 committee until such time as we advise you that this  
5 restriction is no longer necessary.

6 Similarly, you have agreed not to disclose  
7 these transcripts to counsel for any such  
8 individuals. Please let me know immediately if my  
9 understanding of our agreement is not correct.

10 Did you ever tell Mr. McHale that your  
11 understanding of the agreement was -- that his  
12 understanding of the agreement was not correct?

13 A No, I did not.

14 Q What was the discussion that you had that  
15 led to this paragraph?

16 A I think he essentially told me that this  
17 was a condition, we had to accept it or we wouldn't  
18 get the transcripts.

19 Q Did he say who imposed the condition?

20 A No.

21 Q Did he tell you why they wanted this  
22 condition observed?

1 A I don't remember.

2 Q Did you understand in your own mind why  
3 they wanted it observed?

4 MR. SACHS: You mean does she have an  
5 opinion?

6 MR. CHERTOFF: Yes.

7 THE WITNESS: I don't remember if I did at  
8 the time. I -- I can assume that the reason --

9 MR. SACHS: Let's not do that.

10 THE WITNESS: Okay.

11 BY MR. CHERTOFF:

12 Q Did there ever come a time you had an  
13 understanding of why this restriction had been put on  
14 the handling of the transcripts?

15 A Why Treasury had put this restriction in?

16 Q Yes.

17 A I don't believe I ever had an understanding  
18 what was in Treasury's mind.

19 Q Did you ever have an opinion about why this  
20 provision was -- was considered desirable by  
21 Treasury? Did you ever speculate about it?

22 A I believe that this provision is in here

1 because Treasury had concerns that we would use these  
2 transcripts to prepare witnesses for their Senate and  
3 House testimony, and that they didn't want us to do  
4 that.

5 Q Did they ever spell it out for you that  
6 way?

7 A Well, it's spelled out almost that way in  
8 the letter.

9 Q So you understood when you got the letter  
10 that what they were trying to avoid was having  
11 witnesses other than Mr. Cutler look at the testimony  
12 of other witnesses so they could perhaps suggest  
13 their testimony to prepare themselves based on the  
14 knowledge of what other people had previously  
15 testified to under oath; correct?

16 A I think I would have had the sense that  
17 they were concerned more about appearances than the  
18 fact that anything like that would actually happen.

19 Q With that amendment, do you agree with my  
20 characterization of what the purpose of this  
21 restriction was?

22 A Why don't you characterize it again?

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1 Q You understood they didn't want you to  
2 have -- you show one witness what the other witness  
3 said before the witness testified; right?

4 A I believe that's what the letter says.

5 Q And you understood the reason for that was  
6 to avoid either the appearance or the reality that  
7 one witness might tailor his or her testimony based  
8 on the knowledge of what someone else had said;  
9 correct?

10 A I don't know that I understood that that  
11 was Treasury's reason. I know what it says here,  
12 they said you can't use these transcripts. You can't  
13 show a transcript to a witness who's going to  
14 testify -- you can't show a transcript of other  
15 witnesses to a witness who's going to testify before  
16 Congress. I understand what that says.

17 Q Now, did you understand this restriction to  
18 allow disclosure of the substance of a transcript to  
19 a witness other than the witness whose transcript it  
20 was as long as you didn't show the second witness the  
21 physical transcript?

22 A I don't know what my understanding was.



1 The fact is we never did that.

2 Q So -- but you didn't have -- let me put it  
3 to you this way. When you got this letter and read  
4 it, did you believe that the letter or the  
5 restriction imposed would have allowed you to  
6 communicate to witness number 1 what witness number 2  
7 had said in the deposition as long as you did so in  
8 summary fashion as opposed to literally showing them  
9 the transcript?

10 A I don't believe so.

11 Q You understood the purpose of the  
12 restriction was to keep the contents of one witness'  
13 testimony out of -- out of the hands of another  
14 second witness; correct?

15 A I don't know, Mike, that I thought about it  
16 with that kind of specificity. I understood the  
17 restriction as stated here. We never used the  
18 transcripts, either the substance or the actual pages  
19 of the transcript with any witness who was testifying  
20 before Congress.

21 Q Did you ever send it to a lawyer so the  
22 lawyer could use it with a witness?

1 A Not that I recall.

2 MR. SACHS: Can we take a break, soon,  
3 Mike?

4 MR. CHERTOFF: Do you want to take a couple  
5 minutes now?

6 MR. SACHS: Yes.

7 MR. CHERTOFF: All right, fine.

8 (A brief recess was taken.)

9 BY MR. CHERTOFF:

10 Q Ms. Sherburne, at the time you received the  
11 transcripts, was it your understanding that all the  
12 interviews had been completed?

13 MR. WITTEN: Since we had a break here,  
14 you're talking about the transcripts on July 23rd?

15 MR. CHERTOFF: On July 23rd.

16 THE WITNESS: At some point I knew that  
17 Jean Ludwig was either yet to be done or hadn't been  
18 done, I don't know if I knew that on July 23rd.

19 BY MR. CHERTOFF:

20 Q Did you ever receive notification from the  
21 Treasury Department that the restriction on showing  
22 or disclosing the transcripts to individuals had been

1 lifted?

2 A I have learned since that at some point the  
3 restriction was listed. I don't know that it was  
4 lifted in any sort of meaningful way, although, I  
5 believe there's some documentary suggestion that it  
6 was lifted on the 26th of July.

7 Q What's the documentary suggestion?

8 A I think there's a letter from someone if it  
9 was Bob Seska or someone that made reference to a  
10 July 26th or maybe it was in response to some of  
11 Senator Bond's questioning following the date that  
12 that was a date that I saw in a chronology. But  
13 there was something that -- where somebody placed a  
14 date to the lifting of the restriction.

15 Q Between July 23rd and August 3rd or August  
16 the 5th, 1994, did anyone communicate to you that the  
17 restriction on the letter July 23rd, had been lifted?

18 A I remember having an understanding at some  
19 point that the restriction had been lifted.

20 Q From whom?

21 A I believe, but I don't remember how I got  
22 the understanding.

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1 Q Did you see something in writing?

2 A No.

3 Q Did someone tell you?

4 A I don't remember. At the point at which we  
5 got the restriction, it was irrelevant, we had -- the  
6 restriction was lifted, we had completed the review,  
7 Lloyd had testified. We had completed his -- the  
8 chronology that was attached to his testimony.

9 Q For the House?

10 A For the House and the hearing started on  
11 the 26th.

12 Q Right. But when you say that -- the  
13 restriction became irrelevant, you mean after the  
14 26th, because Mr. Cutler testified, you viewed  
15 yourself as no longer bound by the restriction  
16 against disclosing the transcripts to other  
17 witnesses?

18 A Oh, no, not at all.

19 Q You continued to view yourself as bound by  
20 the restriction?

21 A I can't remember at what point I understood  
22 that we are no longer bound. I believe it was after

1 Lloyd testified on the 26th, though, but I'm not  
2 sure.

3 Q Who communicated to you that the  
4 restriction was lifted?

5 A I don't remember.

6 Q Was it communicated to you by somebody from  
7 Treasury?

8 A It could have been communicated to somebody  
9 else on the team who told me, I just don't remember.

10 Q Did you ever -- did you say anything in  
11 writing before August 5th telling you that the  
12 restriction had been lifted?

13 A I don't know, I may have.

14 Q Did you, in fact, communicate -- when I say  
15 you, I mean first you personally communicate either  
16 orally or in writing with any of the  
17 witnesses -- with any of the witnesses about the  
18 substance of the deposition transcripts you've  
19 received pursuant to this letter of July 23rd?

20 A No.

21 Q Did Mr. Cutler do so?

22 A No.

1 Q Did there come a time in 1995 you became  
2 aware of an article in the Associated Press by  
3 Richard Kyle concerning the issue of the handling of  
4 the transcripts?

5 MR. WITTEN: Say that question again.

6 THE WITNESS: Of Richard Kyle?

7 BY MR. CHERTOFF:

8 Q Or Keil.

9 A I was aware of an AP story by Solomon.

10 Q Okay. You became aware of a story by John  
11 Solomon?

12 A Yes.

13 Q And how did you become aware of it?

14 A John Solomon called me.

15 Q What did he say to you?

16 A He told me that he was writing a story  
17 about something related to the IG transcripts.

18 MR. CHERTOFF: Off the record.

19 (Discussion off the record.)

20 BY MR. CHERTOFF:

21 Q What did Mr. Solomon say to you?

22 A I don't remember. I know he told me he was

1 writing something about, either it was the  
2 transcripts or in cooperation with the Treasury IG  
3 and RTC IG to get information, it had something to do  
4 with the exchange of information between the White  
5 House and the IGs in connection with the internal  
6 reviews that both were conducting.

7 Q What did you say to him?

8 A I don't remember.

9 Q Did you talk to Mr. Cutler about it?

10 A Yes.

11 Q What did you say to Mr. Cutler and what did  
12 he say to you?

13 A I remember calling Mr. Cutler and telling  
14 him about a conversation with Solomon that AP was  
15 doing a story and Mr. Solomon had obtained E-mails or  
16 some kind of internal Treasury traffic, and he  
17 had -- was reading me whatever it was he had. And so  
18 I told Mr. Cutler about that and then we talked about  
19 how we should respond.

20 Q Did Mr. Cutler call Mr. Solomon?

21 A I don't know if he called Mr. Solomon or  
22 Mr. Solomon called him. I believe that one way or

1 another there was an encouragement that the two of  
2 them speak to one another.

3 Q Were you present when they spoke to one  
4 another?

5 A I don't think so.

6 Q Did Mr. Cutler tell you after the fact what  
7 he had said to Mr. Solomon?

8 A Yes.

9 Q What did he say to you?

10 A He told me that Solomon seemed to have it  
11 in his head that we used the IG transcripts to  
12 prepare witnesses for Congressional testimony and  
13 that he had told --

14 MR. WITTEN: He, who?

15 THE WITNESS: He, Lloyd had told Solomon  
16 that no such use was made of the transcripts that  
17 Solomon had persisted about the use of information or  
18 how one goes about testing the truth of various  
19 statements with inconsistencies.

20 And that although Lloyd believed he had  
21 made clear to Solomon that these transcripts were not  
22 used in that way, that he explained to Solomon that



1 in the course of an internal review, it would be  
2 entirely reasonable, in fact, necessary to confront  
3 witnesses with inconsistencies that had emerged in  
4 the course of the internal review to -- to test the  
5 truthfulness of what various witnesses were saying.

6 BY MR. CHERTOFF:

7 Q I'm going to read you what I think are the  
8 pertinent portions of the Associated Press article,  
9 and then I want to ask you a couple questions about  
10 it.

11 Beginning at the second paragraph, Former  
12 White House Counsel Lloyd Cutler acknowledged this  
13 week that the depositions were used to identify  
14 discrepancies in the recollections of presidential  
15 aides before the Congressional hearings.

16 White House lawyers would then confront the  
17 aides with information they had obtained from the  
18 informations without reviewing the sources, he told  
19 the Associated Press.

20 Quote, if we found inconsistencies, we  
21 would go back to the White House officials and go  
22 back over testimony they gave us, Cutler explained,

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1 quote, and then we would say we have heard other  
2 reports, quote, I think it was perfectly appropriate  
3 to say that internal, quote, this is your testimony  
4 to us, there is conflicting testimony, are you sure  
5 that's what you said, quote, Cutler said.

6 Have you ever seen those passages?

7 A Yes.

8 Q And have you talked to Mr. Cutler about  
9 those passages?

10 A Yes.

11 Q Did Mr. Cutler tell you that those comments  
12 and quotes were incorrect?

13 A I think the context in which they were  
14 embedded was incorrect.

15 Q Well, the quote -- quote, if we found  
16 inconsistencies, we would go back to White House  
17 officials and go back over testimony. They gave  
18 us --

19 MR. SACHS: Excuse me, is it your  
20 understanding -- I just want to make sure of this  
21 question for you.

22 Michael, is it your understanding that the

1 reference there is to the McHale transcripts that  
2 what Mr. Cutler has represented as saying relates to  
3 the IG transcripts received pursuant to the McHale  
4 transcripts?

5 MR. CHERTOFF: I have read to you -- I'll  
6 read -- the one paragraph I omitted, the opening  
7 paragraph, this is for Whitewater hearings last  
8 summer, the White House consulted confidential  
9 depositions from a Treasury investigation in an  
10 effort to reconcile differently accounts of  
11 administration officials who were about to  
12 testify.

13 I think in light of that opening paragraph,  
14 it's a fair -- fair to say in the context of this  
15 piece, the reference to testimony they gave us is a  
16 reference to the -- the depositions furnished by  
17 Treasury, but -- but I'm not the witness.

18 BY MR. CHERTOFF:

19 Q I want to ask you, Ms. Sherburne. Did  
20 Mr. Cutler tell you that, quote, if we found  
21 inconsistencies, we would go back to White House  
22 officials and go back over testimony they gave us and

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1 then we would say we have heard other reports, I  
2 think it was perfectly appropriate to say that this  
3 is your testimony to us, there is conflicting  
4 testimony, are you sure, that's what you said.

5 Did Mr. Cutler tell you that those words  
6 were quoted incorrectly?

7 A I think, as I said, the context in which  
8 they were embedded is incorrect. The opening that  
9 you say that you, quote, says if -- if we found  
10 inconsistencies, the implication in Solomon's article  
11 and in your question is that inconsistencies were  
12 found in the IG transcripts, and I don't believe  
13 that's what Mr. Cutler was referring to, and I  
14 believe he told me that.

15 Q What did he tell you he was referring to?

16 A He was referring to the process that we  
17 engaged in as we conducted our internal review.

18 Q And the reference to it we found  
19 inconsistencies we would go back to White House  
20 officials and go back over testimony they gave us,  
21 and then we would say we would heard other reports,  
22 there is conflicting testimony.

1 Mr. Cutler told you that those quotes  
2 related to information developed only through your  
3 interviewing?

4 A I think -- I think I understood when I read  
5 it, because I knew what we had done, we had never  
6 used these transcripts in any way, shape or form, the  
7 substance or the transcripts themselves to confront  
8 witnesses with inconsistencies, it simply didn't  
9 happen --

10 Q Did you ever provide --

11 MR. SACHS: She may not be finished with  
12 her answer.

13 MR. CHERTOFF: All right.

14 THE WITNESS: So Mr. Cutler simply could  
15 not have meant the inconsistencies were identified in  
16 the transcripts and then witnesses were then  
17 confronted with it, because that did not happen.

18 I believe what Mr. Cutler was referring to  
19 and what we discussed was that he was talking about  
20 the normal process one undertakes in the course of an  
21 internal review where you test facts, where you  
22 confront witnesses with documentary and other

1 information that you're receiving that's inconsistent  
2 with what they're telling you to try and evaluate the  
3 veracity of the witness, the soundness of the  
4 witness' recollection, and I believe that's what he  
5 was trying to describe to Mr. Solomon.

6 Q Did Mr. Cutler write a letter to any news  
7 organizations and repudiate or criticize the context  
8 in which his quotes were given?

9 A Not that I'm aware of.

10 Q Did -- during the period of time from the  
11 time you received the Treasury transcripts until  
12 the -- well, let me withdraw the question, and I'll  
13 give you this question first.

14 Did you understand that the final report  
15 was completed on July 29th and July 30th?

16 A The final report of what?

17 Q Of OGE.

18 A No.

19 Q Did you know when it was completed?

20 A No.

21 Q During the period of time that you had the  
22 transcripts from Mr. McHale, that's after July 23rd,

1 did you provide the substance of the transcripts of  
2 any of the Treasury witnesses to any of the White  
3 House witnesses to aid in their preparation to  
4 testify?

5 A No.

6 Q Did anybody else in your -- in the White  
7 House Counsel's Office or anyone working at your  
8 direction provide any such summary?

9 A No -- I'm sorry, such summary?

10 Q Yes, summary or the content of any of the  
11 depositions, the treasury depositions to a White  
12 House witness.

13 A There was one summary that was obtained  
14 from Treasury of -- of I believe -- maybe we obtained  
15 summaries of depositions from Treasury, I'm not  
16 familiar.

17 MR. SACHS: Let me interrupt I think for  
18 clarification purposes, Michael's question I  
19 understood to mean summaries that you might have made  
20 of depositions you received.

21 MR. CHERTOFF: Yes.

22 THE WITNESS: No.

1 MR. SACHS: There's another subject matter  
2 that I'm sure you're aware of that uses the word  
3 summary, that is not what I think you're referring  
4 to.

5 BY MR. CHERTOFF:

6 Q Let me ask you. Were there any summaries  
7 of depositions that you -- that were prepared based  
8 on the transcripts you had received from Treasury  
9 that you --

10 A Prepared by the White House?

11 Q Yes, that you sent to any of the witnesses  
12 for White House -- any of the attorneys for the White  
13 House employee.

14 A No.

15 Q Were there any summaries prepared by  
16 somebody else that you sent -- withdrawn.

17 Were there any summaries of Treasury IG  
18 depositions that were prepared by somebody else that  
19 the White House sent to a witness who was a White  
20 House employee?

21 A Yes.

22 Q What was that?



1       A    At some point we obtained summaries of the  
2 depositions.

3       Q    From whom?

4       A    I believe from a fellow named David  
5 Dougherty in the Treasury Department. They were  
6 summaries of the IG depositions and one of those  
7 summaries was provided to the lawyer for Lisa Caputo  
8 with an understanding that had been obtained from the  
9 Treasury that there was no restriction on the use or  
10 sharing of these summaries and that any information  
11 that anyone had thought was particularly sensitive  
12 had been stripped out of the summary.

13      Q    Well, who was David Dougherty?

14      A    I don't know.

15      Q    Where did he work in Treasury?

16      A    I believe he works or worked for Steve  
17 McHale, but I don't know that.

18      Q    And how did he come to provide you with a  
19 summary of these Inspector General depositions?

20      A    I don't know. This was a transaction that  
21 was engaged in or understood, implemented between  
22 David Dougherty and Sharon Conoway, and I learned

1 about it after the fact.

2      Q    When was this entered into?

3      A    I don't know. I don't remember.

4      Q    Was this before you got the transcripts?

5      A    I believe it was after we got the  
6 transcripts.

7      Q    And why was Mr. Dougherty preparing  
8 summaries of the transcripts?

9      A    I have no idea.

10       MR. WITTEN: She didn't testify that  
11 Mr. Dougherty did.

12       THE WITNESS: I don't know if Mr. Dougherty  
13 did.

14       BY MR. CHERTOFF:

15      Q    Well, who prepared them?

16      A    I have no idea. I never saw them.

17       MR. CHERTOFF: Excuse me just a moment.  
18 Off the record.

19       (Discussion off the record.)

20       BY MR. CHERTOFF:

21      Q    How did you -- how did you first learn  
22 about this arrangement that Mr. Dougherty had made to

1 furnish summaries?

2 A Sharon Conoway told me about it.

3 Q How did it come up?

4 A I don't remember. As you know, the closer  
5 we got to the hearing, the more frantically we were  
6 all working, and I don't remember exactly how it came  
7 up.

8 I remember that we are anxious at one point  
9 to try and have the restriction in the McHale letter  
10 lifted.

11 Q Who was interested?

12 A We were -- we're working in the White  
13 House --

14 Q Why?

15 MR. WITTEN: Let her finish.

16 THE WITNESS: Let me finish my answer.

17 BY MR. CHERTOFF:

18 Q All right.

19 A And I believe Sharon may have called or I  
20 may have asked her to call Treasury to determine at  
21 some point or call the IG or whoever to determine at  
22 some point whether the restriction in the McHale

1 letter had been lifted, and she must have contacted  
2 Mr. Dougherty I believe is the way the -- the  
3 sequence works.

4 Dougherty said the restriction on the  
5 transcripts has not been lifted, but I have some  
6 unrestricted material that we're willing to share  
7 with you that you can use in any way you want to, and  
8 so Sharon had obtained these summaries from  
9 Mr. Dougherty and then had faxed the Katsanos summary  
10 to Lisa Caputo's lawyer.

11 Q Why did she do that?

12 A I believe she did that because if you'll  
13 recall there was a -- Katsanos said he had some sort  
14 of a contact, in quotes, with Lisa Caputo, and, as I  
15 recall, she didn't remember the contact, and so there  
16 was -- we were interested in working with her to  
17 figure out if there was a way to refresh her  
18 recollection about this contact and -- so the  
19 Katsanos -- whatever Katsanos said or described as  
20 that contact, it was important for us to know, and it  
21 was something we were anxious to be permitted to  
22 share with her so that we could develop whether or

1 not there was an issue or a recollection here that we  
2 needed to work with, and so that's why Sharon would  
3 have faxed this summary to Lisa's lawyer.

4 Q Did she do this at your direction?

5 A I think she came to me after the fact and  
6 told me that that she had done it.

7 Q And did she tell you after the fact about  
8 her obtaining this from Mr. Dougherty?

9 A Yes.

10 Q Let me go back to your previous answer.  
11 Why were you eager to have the restriction  
12 on the July 23rd letter lifted?

13 A Well, I think the Lisa Caputo example is a  
14 good one. There was some information that we learned  
15 or was available to us through the IG transcripts  
16 that could have been useful in pinning down and  
17 verifying that we had the White House side of the  
18 story accurately understood.

19 Q In other words, it would have been useful  
20 to use in working with the White House witnesses?

21 A It would have been useful in confirming and  
22 developing the conclusions in Lloyd Cutler's internal

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1 review and the report that he was making to Congress  
2 and the President to make sure that all the facts  
3 available had been explored fully with the  
4 witnesses.

5 Q And it would be useful also in reconciling  
6 different testimony or different statements of  
7 different witnesses; correct?

8 A I don't believe we were trying to -- I  
9 don't believe we were using them to reconcile  
10 anything. We just wanted to make sure we understood  
11 what all the testimony was so that we could make a  
12 determination about what had happened.

13 Q Now, so sometime after -- the 23rd is a  
14 Saturday, sometime after the 23rd, the White House  
15 lawyers decided they wanted to get the restriction  
16 lifted, who did you call at Treasury to get it  
17 lifted?

18 A I don't remember.

19 Q Did Mr. Cutler try to call anybody?

20 A I don't believe so.

21 Q Did you call Francine Kerner?

22 A I don't remember.

1 Q Did you call Mr. McHale?

2 A I don't recall.

3 Q How is it that -- now, Ms. Conoway is  
4 trying to get a sense in terms of her years out of  
5 law school, how many years out of law school was she  
6 at the time she was working in '94 at the White  
7 House?

8 A I think five or six.

9 Q So she was clearly junior -- junior to you  
10 in her status; right?

11 A Oh, sure.

12 Q And on her own initiative, she contacted  
13 Mr. Dougherty at the Treasury?

14 A I don't know how she found Mr. Dougherty.  
15 I don't think I had ever heard of him  
16 before -- well -- well, I don't know, I may have  
17 encountered him in one of these meetings that we  
18 would have had with the Treasury people, but he  
19 wasn't on my radar screen. I don't know how she  
20 found him. He may have been sort of her counterpart.

21 Q Another junior lawyer at Treasury?

22 A He may have been, I don't know.

1 Q And to this day, you don't know how it is  
2 she got in touch with him?

3 A She may have been referred to him by  
4 McHale's secretary. She may have tried McHale and  
5 determine whether or not the restriction was still  
6 alive.

7 Q Was she given the assignment to see if the  
8 restriction was still alive?

9 A I may have asked her to see if there was  
10 any change in the Treasury position --

11 Q And --

12 A -- that would have been a natural thing for  
13 me to ask her to do.

14 Q And -- and to this day, you don't know how  
15 she wound up talking to Mr. Dougherty?

16 A No.

17 Q And Mr. Dougherty, your understanding is  
18 said the restriction --

19 MR. SACHS: I know. I'll volunteer, I  
20 know, but go ahead.

21 MR. CHERTOFF: Well, if you want to  
22 testify, you're --



1 MR. SACHS: Go ahead.

2 BY MR. CHERTOFF:

3 Q How did she -- so you don't know how she  
4 got a hold of Mr. Dougherty?

5 A No.

6 Q And you don't know -- what was the  
7 discussion between Mr. Dougherty and Ms. Conoway?

8 A I don't know what the discussion was beyond  
9 what I have since seen in a document that I recently  
10 came across.

11 Q You mean a document that was produced to  
12 us?

13 A Right.

14 Q And what's your recollection?

15 A Of what -- of --

16 Q Of what the conversation with Dougherty  
17 was.

18 A I don't have a recollection of the  
19 conversation with Dougherty.

20 Q All right. I'm going to show you Exhibit  
21 S7913 which I'll read into the record because we only  
22 have one copy, Jane, one, I read Steiner's

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1 transcript, I have copied his description --

2 A Excuse me, is there a date on that?

3 Q July 27, 1994. I read Steiner's  
4 transcript, I've copied his description of his  
5 conversation with Vicki's about Altman's statement.  
6 He was thinking of stepping down. It sounds a little  
7 different from what's in our chronology at 31 and  
8 32-33.

9 David Dougerthy, Treasury, told me the RTC  
10 has not yet agreed to release the transcripts but may  
11 do so tomorrow. He said they seem very touchy about  
12 the transcripts, and he discusses some dismay that  
13 Treasury had given them to the White House.

14 RTC concern is that it does not want  
15 nonpublic information that would impair its  
16 investigations. He stressed it is important that  
17 nothing in the transcripts be made public at least  
18 with attribution until they are released.

19 I told him we understood that. This  
20 afternoon, he gave me summaries of the transcripts,  
21 he had not realized we did not have and told me that  
22 the transcripts could be given to witnesses and their

1 counsel.

2 I faxed the Katsanos summary to Bill Taylor  
3 and corrected one statement that inaccurately  
4 reflected the testimony. I told Taylor's associate  
5 of Treasury's concern about not attributing  
6 information to the transcripts.

7 Now, let me ask you, do you remember  
8 getting this E-mail?

9 A No, and that's not an E-mail.

10 Q It's just a typed message?

11 A Yeah, yes.

12 Q Do you remember getting it?

13 A No.

14 Q Do you remember having any reaction to  
15 it -- to the content at some point in time?

16 A I believe I saw it for the first time a few  
17 days ago.

18 Q So --

19 A And, yes, I did have a reaction.

20 Q After all the negotiations with Lloyd  
21 Cutler and Lloyd Benson and everybody else about  
22 handling the information, is it your understanding

1 that summaries of the content of these transcripts  
2 were passed over from a low-level lawyer at Treasury  
3 to a comparatively low level in the White House  
4 Counsel's Office with permission to disseminate to  
5 witnesses and their lawyers as long as they did so  
6 secretly without attribution, and that was done  
7 at -- that decision was made at a low level; is that  
8 your understanding?

9 A No.

10 Q What's your understanding?

11 A Well, there's a lot of characterizations in  
12 your question that I wouldn't adopt in an answer.

13 My understanding is that Dougherty provided  
14 to Conoway summaries of transcripts saying that any  
15 sensitive information had been stripped of the  
16 summaries and that there was no restriction being  
17 imposed by the IGs on the use of the summaries, and  
18 that it was permissible for him -- in fact, he was  
19 surprised that we didn't already have the summaries,  
20 permissible for him to provide them to us.

21 I learned that after the fact. I believe  
22 at some point Katsanos -- not Katsanos, Dougherty

1 called Conoway and said he had been mistaken that he  
2 should not have provided the summaries and Conoway  
3 sent them back. I don't remember --

4 Q When did you learn all this?

5 A I learned it sometime between July 27th and  
6 the first week in August; it was over that time  
7 period that I became aware of.

8 Q So during that week you had learned that  
9 summaries had been sent to by Treasury to the White  
10 House Counsel's Office by mistake and they had to be  
11 sent back?

12 A I believe Sharon told me that Dougherty  
13 called her and said that he had since learned that he  
14 was not supposed to have sent her the summaries and  
15 asked for them back, but I don't remember when that  
16 was.

17 Q You said it was between July 27th and the  
18 first week of August?

19 A Within -- within that time period.

20 Q And what did you -- what was your reaction?

21 A I don't remember my reaction.

22 Q Well, I'm going to show you what's been

1 marked as S7108, S7109, S7110 and S7111.

2 Is this the summary of the Katsanos  
3 deposition that was sent to Ms. Caputo's lawyer along  
4 with the fax cover page?

5 A Yes, it appears to be.

6 Q And did you see this sometime between July  
7 27th and the first week of August 1994?

8 A No.

9 Q When did you first see it?

10 A I believe in August of '95.

11 Q Let me show you S7112, it's a note  
12 handwritten, Jane, re: Issue of whether we gave IG  
13 transcripts to witnesses, please recall I faxed a  
14 three-page summary of the Katsanos transcript to  
15 Caputo's lawyer, I do not believe the lawyer showed  
16 it to Caputo, but do not know for sure, we should  
17 discuss, question mark. S.

18 Do you recognize the handwriting?

19 A Yes.

20 Q When did you see that?

21 A The first time I remember seeing it was in  
22 August of '95.

1 Q And when is it your understanding this note  
2 was prepared?

3 A I suspect it was prepared in the summer of  
4 '94 --

5 Q And --

6 A -- but I don't know that.

7 Q You don't remember seeing this?

8 A No.

9 Q So I want to make sure I understand this.

10 In terms of what you knew between July 27th  
11 and the first week of August 1994, you did know that  
12 summaries of these IG transcripts had been furnished  
13 from Treasury to a lawyer in the White House  
14 Counsel's Office; correct?

15 A If Dougherty's from Treasury and not IG, if  
16 you're making that distinction, and I don't know  
17 exactly where Dougherty fits, but, yes, I understood  
18 that the White House Counsel's Office in the form of  
19 Sharon Conoway obtained summaries of IG transcripts.

20 Q And you knew that at least as of the first  
21 week of August; right?

22 A I believe I knew that as of the first week

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1 of August, which also would have been the same time I  
2 knew they were provided to us explicitly without  
3 restriction on their use.

4 Q And then you also knew -- learned before  
5 the first week of August that that was a mistake and  
6 they had to be sent back?

7 A I don't know when I learned that, if that  
8 was before -- I don't remember when I learned that.  
9 I would suspect it was during that same time period,  
10 but I just don't recall.

11 Q How did you learn it?

12 A Sharon probably told me.

13 Q So when Sharon came to you and said, in  
14 substance, we got these -- these summaries of  
15 transcripts and we have to send them back it's a  
16 mistake, did you ask what -- had you seen summaries?

17 A No.

18 Q Did you ask her what happened to the  
19 summaries?

20 A I don't know if -- at what point she told  
21 me that she had sent one summary to Bill Taylor, but  
22 at some point I did know she had done that with the



1 summary.

2 Q Was that before the first week of August?

3 A Well, the date of the -- this is -- the  
4 transmittal is the 27th.

5 Q Well, did you know as the first week of  
6 August that -- that one of these had been sent to  
7 Mr. Taylor?

8 A I don't know precisely when I knew that.

9 Q Now, you remember that when the hearings  
10 began in the Senate, there was a big issue raised  
11 about the handling of the IG transcripts; right?

12 A When the hearings began in the Senate?

13 Q Yes.

14 A I don't think that issue became a big issue  
15 until the second week of the hearings.

16 Q Well, the first full week of the hearings  
17 in other words.

18 A Well, the second week.

19 Q The hearings began on the 29th which was a  
20 Friday, and then the Treasury portion began the  
21 following Monday; correct?

22 A And then did they extend into yet another

1 week?

2 Q No.

3 A So it was -- is that all, it seemed longer  
4 than that?

5 Q During the course of that hearing, do you  
6 recall an issue arising Mr. Altman making a  
7 reference -- to something that Mr. Ickes had  
8 testified to in the course of his own testimony?

9 A No.

10 Q Do you remember an issue being raised by  
11 some of the senators concerning the handling of the  
12 IG transcripts?

13 A Yes.

14 Q At that time were you aware -- did you make  
15 any efforts within the White House Counsel's Office  
16 to respond to questions or respond to the issue of  
17 how those transcripts were handled?

18 A Yes. Lloyd sent a letter I believe to  
19 Chairman Riegle on August 3rd describing the  
20 cooperate -- the general nature of the cooperation  
21 with Treasury, and then specifically the  
22 transcripts.

1 Q And during the course of preparing that  
2 letter and responding to these issues that were  
3 raised, did you -- how did you address these facts  
4 which Ms. Conoway had related to you concerning these  
5 summaries and the fact that one of them had been sent  
6 to -- to Lisa Caputo's attorney?

7 A I don't remember addressing that issue in  
8 that context. I think -- I understood that a receipt  
9 had been something that they had said was without  
10 restriction, and the subject of the letter was the  
11 McHale restriction on the actual transcripts, not  
12 unrestricted summaries, but restricted transcripts,  
13 and that's what we were addressing in the letter.

14 MR. WITTEN: Michael, before you ask  
15 another question, I'd like to stay on the record, but  
16 ask Ms. Sherburne to leave the room.

17 MR. CHERTOFF: I beg your pardon?

18 MR. WITTEN: Before you ask your next  
19 question, I'd like to stay on the record but  
20 ask Ms. Sherburne to go out of the room alone without  
21 any of her counsel with her so we can have a  
22 conversation with you.

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1 MR. CHERTOFF: On the record.

2 MR. WITTEN: On the record or off the  
3 record as you prefer?

4 MR. SACHS: It is all right.

5 MR. CHERTOFF: We can -- I mean -- that's  
6 fine. You understand we don't have sealed  
7 proceedings here, anything that's going to be on the  
8 record is going to be.

9 MR. SACHS: It's half a second.

10 MR. WITTEN: We'll come get you.

11 (Discussion off the record.)

12 BY MR. CHERTOFF:

13 Q Do you know where these summaries are?

14 A Today?

15 Q Yes.

16 A No.

17 Q Are there any left at the White House, to  
18 your knowledge, other than the one I just showed you  
19 which was from a White House production?

20 A Did we produce any to you?

21 Q I'm not aware of any. I'm asking you.

22 A If we didn't produce any to you, I doubt

1 there are any at the White House. I don't think  
2 there would be.

3 Q Now, directing your attention to the period  
4 of time when again up through the first week of  
5 August, were you aware at that point that at least  
6 one of the summaries had been shared with an attorney  
7 for one of the White House witnesses?

8 A Do you want to know if I was aware of that  
9 at the time that Lloyd's April -- or August 3rd  
10 letter was prepared?

11 Q Or within a day or so before or after,  
12 yes.

13 A Before or after. I believe I was aware of  
14 it by the time we prepared that letter.

15 Q Let me get the letter.

16 I'm going to show you what's been  
17 identified as S2121 and S222 for identification, is  
18 this the August 3rd letter to which you referred?

19 A Yes.

20 Q Let me have it back for a second because I  
21 only have one copy.

22 Now, was this letter -- did you work on

1 this letter?

2 A Yes.

3 Q Was this letter designed to address the  
4 concerns that were raised about whether deposition  
5 transcripts were shared with the White House before  
6 the OGE report was made public?

7 A I don't recall the concern being sharing  
8 with the White House before the OGE report was made  
9 public, I don't recall that being the way that the  
10 discussion was framed.

11 But this was certainly designed to respond  
12 to questions as it says in the first paragraph that  
13 Senator Bond raised. I haven't reviewed the  
14 transcript recently, I don't remember precisely what  
15 questions he raised.

16 Q And next to the last paragraph on the  
17 second page has its concluding two sentences, these  
18 transcripts were used by me and my staff to complete  
19 my review of these matters in preparing --

20 A Oh, I'm sorry on the second page.

21 Q These transcripts were used by me and my  
22 staff to complete my review of these matters and

1 prepare for my Congressional testimony. We did not  
2 provide copies to anyone.

3 At the time that this was written, you were  
4 aware -- did you have a knowledge that at least a  
5 summary had been provided to the lawyer for one of  
6 the White House witnesses?

7 A I believe I probably did.

8 Q Did you discuss with Mr. Cutler whether  
9 that ought to be addressed in the letter?

10 A I don't remember if I did or didn't.

11 Q Did you consider yourself whether it should  
12 be addressed in the letter?

13 A I don't believe I gave it a lot of  
14 thought. This was dealing with the transcripts and  
15 the restrictions that be imposed on our use of the  
16 transcripts.

17 Q And at the point this letter was written,  
18 did you believe that the summaries were still  
19 unrestricted in terms of how they could be handled?

20 A It's -- that's possible, but I don't  
21 recall.

22 Q When you prepared this letter, had you had

---

1 the conversation -- a conversation with Ms. -- with  
2 Ms. Conoway concerning the circumstances of the way  
3 in which she handled the summary?

4 A I believe by that time, I probably had,  
5 yes.

6 Q Did you consider it all whether you ought  
7 to disclose to the Senate that the content of the  
8 interviews of the transcripts had been furnished to  
9 at least one of the lawyers for the witnesses?

10 A The content or the interviews of the  
11 transcript.

12 MR. SACHS: I have to object to the form.

13 BY MR. CHERTOFF:

14 Q I'm sorry, the content of the  
15 depositions -- let me withdraw the question.

16 When you prepared the letter of August 3rd,  
17 did you consider disclosing to Congress that the  
18 content of one of the depositions had been disclosed  
19 to one of the attorneys for a White House employee?

20 A No. When that disclosure had occurred, it  
21 was pursuant to an explicit understanding that there  
22 was no restriction on the disclosure.



1 Q Did you consider putting in the letter the  
2 fact that Treasury had furnished summaries of  
3 depositions for unrestricted use?

4 A No.

5 Q Did Ms. Conoway tell you in the discussions  
6 you had on or before August 3rd that she had been  
7 asked by Mr. Dougherty to make sure that if the  
8 transcripts were released or disclosed they  
9 shouldn't -- they should be without attribution?

10 A I don't remember that, no.

11 MR. SACHS: How much longer are we going to  
12 be?

13 MR. CHERTOFF: Another 10 or 15 minutes.

14 BY MR. CHERTOFF:

15 Q Do you remember an issue being raised  
16 during the hearings about Mr. Altman in which  
17 Mr. Altman indicated he had seen Ms. Hanson's  
18 transcripts or depositions?

19 A No.

20 Q Now, did you have a conversation with  
21 Ms. Sherburne on July 29th --

22 A I am Ms. Sherburne.

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1 Q I'm sorry, with Ms. Kerner. It's getting  
2 late.

3 Did you have a conversation with Ms. Kerner  
4 on July 29th on evening about her objections about  
5 her releasing any transcripts?

6 A On July 29th? Do you know when the  
7 redacted transcripts were sent to the hill?

8 Q I don't know. We can check. I don't  
9 know.

10 MR. PORTNOY: What was the question?

11 MR. O'CALLAGHAN: When they were sent to  
12 the hill?

13 THE WITNESS: Right, when the redacted  
14 transcripts were sent up here.

15 Your question pegs a conversation on July  
16 29th late in the evening?

17 BY MR. CHERTOFF:

18 Q Yes.

19 A And the subject?

20 Q Did you have a conversation with Ms. Kerner  
21 late in the evening on July 29th objecting to the  
22 release of any deposition transcripts to Congress and

1 requesting an opportunity to be heard?

2 A I certainly remember conversations  
3 objecting to redacted transcripts being released to  
4 Congress rather than unredacted transcripts. I did  
5 not -- I did not express any concern ever at any time  
6 about releasing transcripts of the IG depositions to  
7 Congress.

8 Q Well, I want to know what's been marked as  
9 541 which is a -- an excerpt from a message pads from  
10 Ms. Kerner's office, it's a Treasury production, the  
11 middle message pad is for Francine from what's stated  
12 as Jean Sherburne, July 29, 7:43 p.m., message, we  
13 object to the release of any deposition transcripts  
14 and before they're released, we request an  
15 opportunity to be heard. And then it says in the  
16 bottom BJV from voice mail, 8/1.

17 Does this -- did you leave a voice mail for  
18 Ms. Kerner late on July 29th communicating this  
19 message?

20 A Well, I'll tell you to a certainty, I know  
21 I objected vigorously, strenuously to the release of  
22 redacted transcripts to the Senate and before

1 redacted transcripts were sent as opposed to  
2 unredacted transcripts.

3 I'm sure I asked for an opportunity to make  
4 a case that the Senate ought to be given unredacted  
5 transcripts.

6 Q Do you remember this voice mail?

7 A This is not a voice mail, this is a  
8 message.

9 Q Or the message that leaving the voice mail  
10 to this effect.

11 A To this effect would have been we object to  
12 the release of any redacted deposition transcripts,  
13 that is the only thing I could have meant. I never  
14 objected for a heart beat to the release of  
15 deposition transcripts to the United States Senate.

16 MR. SACHS: Michael, the -- the document  
17 that we have in front of us, Number 541, on both that  
18 message and the message that is the middle message on  
19 the page as well as on the one under it which appears  
20 to be --

21 MR. CHERTOFF: Several days later.

22 MR. SACHS: -- yes, August 2nd, they each

1 have the print OVR, which suggests there is going to  
2 be more.

3 MR. CHERTOFF: We're going to have Treasury  
4 give us the back of this.

5 BY MR. CHERTOFF:

6 Q Okay. When you prepared the letter of  
7 August 30th --

8 MR. SACHS: So it's clear at the moment,  
9 the document you've shown the witness is simply  
10 incomplete, it appears to be.

11 MR. CHERTOFF: I think that's the way we  
12 received it, we're going to see if we can get the  
13 rest of it.

14 BY MR. CHERTOFF:

15 Q And with respect to the letter of August  
16 3rd, which you have before you, did you have any  
17 conversations with Pat Black in connection with the  
18 preparation of that letter?

19 A Yes.

20 Q What was --

21 A Wait a minute. I'm not sure I actually  
22 spoke to Pat Black myself about it.

1 Q Did you communicate with her in some way?

2 A Yes.

3 Q What was the communication?

4 A We had prepared a draft of this August 3rd  
5 letter, and I had provided the draft to the IGs to  
6 make sure that the articulation of our understanding  
7 was consistent with their understanding.

8 Q And do you remember if Ms. Black raised an  
9 objection?

10 A Yes, I remember that she sent back a  
11 proposed edit to the letter based on her recollection  
12 of how the transcript issue had developed.

13 Q Does this refer back to this meeting in  
14 early July between you and Ms. Kerner and Ms. Black?

15 A I don't think necessarily, no.

16 Q Did she object to your original draft on  
17 the letter in that it seemed to her from your  
18 original draft that you were suggesting that as of  
19 early July, the Inspectors General had agreed to  
20 furnish you with transcripts in return for getting  
21 White House documents?

22 A I remember being surprised that I got the



1 fax that you have in front of you from Pat Black;  
2 that is, she had that -- she had been unaware of the  
3 request for transcripts, because I thought this had  
4 been something that had been on the table and we had  
5 discussed and that they understood.

6 I think her concern was -- was the  
7 implication that the availability that we made of  
8 White House witnesses for their interviews was  
9 contingent on our receipt of the transcripts, and she  
10 didn't consider that for a quid pro quo and objected  
11 to that characterization in the letter.

12 Q Did she also complain about the fact that  
13 she had not known about the release of the  
14 transcripts to the White House until several days  
15 after they were released?

16 A I don't know if I would characterize that  
17 as a complaint. I think that's a statement she made  
18 in the fax that you're apparently reading.

19 Q I'm going to show you S2114, which is the  
20 fax and S2115 which is the attachment to the fax and  
21 ask you whether that refreshes your memory any  
22 further about what her objection was.

1 A As I said, I'm not sure I actually had a  
2 conversation with her about this. It may have only  
3 been what I received in this fax, so there's nothing  
4 to refresh if this is all I got.

5 Q Did you contact Ms. Black after getting  
6 that fax?

7 A I don't recall, I may have.

8 Q Did you agree to make a change in the  
9 letter?

10 A We didn't make the change precisely as she  
11 had suggested it, but we agreed to make a change in  
12 the letter to take out whatever implication she  
13 thought was in here that there was a quid pro quo.

14 Q Was this the first time that you understood  
15 that she objected or had not been consulted -- let me  
16 withdraw the question.

17 Was this the first time you understood that  
18 she had some kind of objection to your receiving the  
19 transcripts of these Inspector General depositions?

20 A That she personally, that Pat Black had an  
21 objection?

22 Q Well, in her capacity as counsel of the



1 Inspector General of the RTC.

2 A Well, at some point at the time -- at the  
3 time we received the transcripts, I think I  
4 understood that there was some internal dispute about  
5 when we should get them, how we should get them, I  
6 never knew the details of the dispute, and I never  
7 knew if it was as between the Secretary's office and  
8 the Treasury IG -- Treasury IG, RTC IG.

9 I don't think I ever knew the dimensions of  
10 the dispute, but that there was some issue that had  
11 been raised. And this fax indicated that -- well, of  
12 course, at this point she's claiming that the RTC IG  
13 did not find out about the request three days after  
14 the release, a long way, tired way to answer your  
15 question.

16 I don't know what I thought she knew or  
17 didn't know, but I remember being surprised  
18 that -- at her statement that she didn't even find  
19 out about the request until three days after the  
20 release because, in fact, the request had been  
21 discussed and had been on the table and for weeks.

22 Q Had the request been rejected earlier?

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1 A No.

2 Q Did Ms. Kerner weigh in on this August 3rd  
3 letter?

4 A I remember also seeking Ms. Kerner's views  
5 on whether we had accurately stated the nature of the  
6 cooperation with the IGs and receiving her views on  
7 that subject.

8 Q And did you ultimately have a conversation  
9 with Ms. Black after she left you a paging message  
10 about the issue of this August 3rd letter?

11 A I don't remember being paged by Ms. Black  
12 or whether I had a conversation with her about this.  
13 We may have -- I may have, but I don't remember.

14 Q Did you actually at one point have to go  
15 and retrieve an earlier draft of this August 3rd  
16 letter because of Ms. Black's objections?

17 A Not that I recall.

18 Do you have the second page? That's all  
19 you have, okay.

20 Q During the week of July 26, was Sherry  
21 Conoway --

22 MR. SACHS: Sharon.

1 BY MR. CHERTOFF:

2 Q I'm sorry, Sharon Conoway preparing  
3 analyses of the transcripts of the various witnesses  
4 who was before the Inspector General in order to  
5 explore inconsistencies on them?

6 A I don't believe we asked her to prepare any  
7 analyses. I know we asked her to review the  
8 transcripts and identify and flag for us any  
9 inconsistencies in the testimony, but I don't recall  
10 asking her to prepare analyses.

11 Q I'm going to show you exhibits S or numbers  
12 S7009 through S7011 for identification, and ask you  
13 if you recognize these to be memoranda prepared by  
14 Ms. Conoway.

15 A This appears to be a memo prepared by  
16 Sharon Conoway.

17 Q Now, Mr. Cutler testified on July 26th?

18 A I believe that was the date that he  
19 testified in the House.

20 Q At that point was it your understanding  
21 that the internal review was complete?

22 A I think at that point we had -- he had

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1 testified before the Senate on the findings and his  
2 internal review.

3 Q Before the House?

4 A I'm sorry, before the House. So to the  
5 extent, you know, that he testified about the state  
6 of her knowledge at that point, it was complete to  
7 that point, of course, you can always learn new  
8 things and it can affect a conclusion.

9 I'm sure if he learned something between  
10 the 26th and the 5th when he testified in the Senate,  
11 he would have probably incorporated that in the  
12 Senate testimony. But I think by the time he  
13 testified in the House, we had viewed the internal  
14 review was complete.

15 Q You were not -- after he testified in the  
16 House, you were no longer in the process of  
17 conducting the internal review; is that correct?

18 MR. SACHS: That's not what she said,  
19 Michael.

20 MR. CHERTOFF: I'm asking her.

21 BY MR. CHERTOFF:

22 Q Is that correct that you were complete in

1 terms of your process of acting -- being actively  
2 engaged in an internal review?

3 A I think. Of course, we never shut down to  
4 the possibility that additional facts could be  
5 material to conclusions, but I think we had some  
6 degree of confidence by the 26th that our work had  
7 been essentially completed.

8 Q Didn't Mr. Cutler's testimony on the 26th  
9 tell the House that he completed his review and he  
10 had reach certain conclusions?

11 A Yes.

12 Q And at that point in time, is it not  
13 correct that you did not plan on going out to solicit  
14 or seek further information in order to complete a  
15 review?

16 A I think that's correct.

17 Q Why did you have Ms. Conoway working on an  
18 analyzing inconsistencies in the transcripts the next  
19 day?

20 A The next day following Mr. Cutler's  
21 testimony?

22 Q Right.

1 A I don't know that I did.

2 Q Well, it was prepared on July 27, 1994, do  
3 you think Ms. Conoway didn't get the word that the  
4 review was closed?

5 A I don't know that that has anything to do  
6 with the internal review.

7 Q Well, what was the purpose of preparing  
8 this memo S7009?

9 A I think she was reviewing the various  
10 transcripts at that point to identify any additional  
11 information that might be useful down the road.

12 Q Why? For what?

13 A Oh, for any additional purpose that it  
14 might be put to.

15 Q Was it for purposes of working with the  
16 lawyers for the individual witnesses for the White  
17 House?

18 A Absolutely not.

19 Q Well, what I'm having difficulty with is,  
20 the review culminated in a report which Mr. Cutler  
21 unveiled and made public in the house on July 26th;  
22 correct?

1 A Correct.

2 Q When he went before the House, was  
3 it -- was it the understanding that Mr. Cutler had as  
4 you knew it that there was further analysis that was  
5 underway?

6 A In connection with the internal review?

7 Q Yes.

8 A No.

9 Q Now, other than the internal review, what  
10 other work was the White House Counsel's Office doing  
11 that necessitated using the transcripts of the  
12 depositions?

13 A Well, the transcripts of the depositions  
14 were never used in substance or actually shown them  
15 in connection with preparing witnesses for any  
16 testimony that they gave to Congress, either the  
17 House or the Senate.

18 Q I don't think that question answered the  
19 question. My question was --

20 MR. SACHS: What did Cutler testify in the  
21 Senate?

22 MR. CHERTOFF: August 5th.

1 THE WITNESS: August 5th.

2 BY MR. CHERTOFF:

3 Q Did his testimony before the Senate differ  
4 materially from his testimony from the House?

5 A His testimony before the Senate was  
6 different than the testimony -- we didn't use the  
7 same statement both times.

8 The testimony in the Senate had I think  
9 addressed other issues that may have been -- may have  
10 come up in either the House or the Senate hearings,  
11 so, yes, it was different.

12 Q Did -- when Mr. Cutler made his standpoint  
13 before the house on July 26th, did he qualify the  
14 statement in any way or suggest in any way that the  
15 internal review was not complete?

16 A I don't believe he did.

17 Q My question to you, again, therefore, is  
18 for what purpose was anybody in the White House  
19 Counsel's Office making use of the deposition  
20 transcripts after Mr. Cutler had made his submission  
21 to the House of Representatives on July 26th?

22 A Well, your question is sort of a reverse



1 restriction. We had a restriction on the use of  
2 these that we could not show them or share them with  
3 any witness who's going to testify before Congress.

4 We did not do that. We never did that, and  
5 that was the extent of the restriction, there was no  
6 restriction saying you cannot use them ever for any  
7 other purpose, and any work that Sharon would have  
8 done within the 27th or any other time with these  
9 transcripts was not inconsistent with the restriction  
10 imposed on the use of the transcripts.

11 Q My question still is, when is -- for the  
12 third time, what was the purpose for anybody in the  
13 White House Counsel's Office to -- working with the  
14 transcripts of the depositions after Mr. Cutler had  
15 made his submission of the results of his internal  
16 review on July 26th to the House of Representatives?  
17 What was the purpose?

18 A A part from the restriction, you're not  
19 interested in the restriction?

20 Q I'm asking you what was the purpose.

21 A Well, I don't know what was in  
22 Ms. Connaway's head when she prepared that, and I

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1 don't remember asking her to do it. I know we had  
2 been interested in the process related to the  
3 criminal referrals and may have asked her to review  
4 the transcripts to identify if there were anything in  
5 them that would help us understand what that process  
6 would have been.

7 It would have been something we couldn't  
8 have gotten from White House witnesses, and that may  
9 have been part of the undertaking she was engaged  
10 in. Those issues were testified to in the House that  
11 week or maybe it was the following week by the  
12 witnesses whose IG testimony I think she references  
13 there. So that could have been one purpose of her  
14 use of the transcripts.

15 Q Let me show you what are identified as  
16 S7012 through S7050 and ask you if you recognize what  
17 these documents are and who prepared them.

18 (Witness reviews the document.)

19 THE WITNESS: Your question?

20 BY MR. CHERTOFF:

21 Q Do you recognize those documents?

22 A Yes.

1 Q What are they?

2 A I'm not sure what you mean by "recognize."

3 I mean I recognize them, I've seen them recently.

4 They appear to be several different documents that

5 seem to be a collection of various witnesses

6 statements on various subjects.

7 Q Do you know who prepared them?

8 A No.

9 Q Were they prepared at your direction?

10 A Not that I recall.

11 Q I'm going to show you what's been

12 identified as numbers S2129 through S2132 which is a

13 four-page letter from Lloyd Cutler to Senator Riegle

14 and ask you if you've seen that before.

15 (Witness reviews the document.)

16 THE WITNESS: Yes, I have seen that before.

17 BY MR. CHERTOFF:

18 Q Did you review that before it was signed  
19 and sent out?

20 A Yes, I believe so.

21 Q Okay. If I can have it back for a second.  
22 I'd like to direct your attention to

1 question, 1, when did the White House tell Treasury

2 personnel that you wanted the Treasury RTC

3 depositions, to whom was this request communicated,

4 was the request made for all deposition transcripts,

5 or was it simply for the transcripts of White House

6 personnel; answer, 1, on July 5, 1994, lawyers from

7 the office of White House Counsel told Treasury

8 personnel that the White House would like to receive

9 transcripts of the then upcoming Treasury RTC

10 depositions. This request was later restated on

11 other occasions during July 1994. The request was

12 communicated to Francine Kerner, Stephen McHale, Ken

13 Schmalzbach, Secretary Benson, the request was for

14 all deposition transcripts.

15 Is there some reason in the context of this

16 question and answer that you made a determination not

17 to disclose the communication with Mr. Dougherty?

18 A I'm sorry, but the question as asked

19 doesn't -- is asking --

20 Q For communications -- request for

21 transcripts.

22 A When did the White House tell Treasury

1 personnel that you wanted copies of the Treasury RTC  
2 depositions?

3 Q Was Mr. Dougherty part of the Treasury  
4 Department?

5 A I don't understand your question.

6 Q My question is -- the question asks for,  
7 when did the White House tell Treasury personnel that  
8 you wanted copies of the Treasury RTC depositions; to  
9 whom was this request communicated?

10 Now, your understanding at least as of the  
11 first week of August 1994 was that someone had  
12 requested of Mr. Dougherty in the Treasury to  
13 determine whether the transcripts would become  
14 available in an unrestricted basis or to get some --

15 A No, no, I think that had to do with the  
16 restriction. I think she was asking --

17 Q She wasn't asking for --

18 A I think we already had copies.

19 MR. SACHS: No, there's no such testimony.

20 BY MR. CHERTOFF:

21 Q Did you consider disclosing in answer to  
22 this question that there would be a request for

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1 summaries of transcripts?

2 MR. SACHS: There's no testimony that there  
3 had been a request for summaries.

4 Michael, don't misstate the record here.

5 BY MR. CHERTOFF:

6 Q Well, your knowledge --

7 MR. SACHS: First of all, you never called  
8 to -- she never talked to Dougherty, this witness  
9 told you her understanding.

10 MR. CHERTOFF: Which is all I'm interested  
11 in probing.

12 MR. SACHS: This witness told you her  
13 understanding which never stated, let me state, that  
14 the White House through Conoway or anyone else  
15 requested any summaries at all.

16 BY MR. CHERTOFF:

17 Q Was it your understanding that the  
18 summaries that were received from Dougherty by  
19 Conoway were not made in response to a request for  
20 information, they were just volunteered?

21 MR. WITTEN: I think she's already  
22 testified that Dougherty said -- he was surprised the



1 White House didn't know they existed, so how would  
2 they have asked for it?

3 BY MR. CHERTOFF:

4 Q Was that your understanding?

5 A I have no knowledge that Sharon Conoway  
6 asked Dougherty for anything related to a summary or  
7 a transcript.

8 Q Your understanding is she called simply to  
9 find out when the transcripts could become  
10 unrestricted; right?

11 A That's my understanding.

12 Q And your understanding is that  
13 Mr. Dougherty then just volunteered out of the blue  
14 to send summaries over?

15 A I don't know if that's the way it happened  
16 or not. From the way I heard the description of it,  
17 that would be logical.

18 Q So in preparation for the letter of October  
19 28th, did you think to get in touch with Ms. Conoway  
20 and ascertain the details of what that contact was so  
21 you could determine whether you needed to address it  
22 in this letter?

1 A It didn't seem remotely relevant to the  
2 question, so no.

3 Q Now, I'm going to show you S2093 through  
4 S2103 and ask you if you recognize this to be a draft  
5 of answers to questions posed by Senator Riegle to be  
6 furnished by the Department of the Treasury that was  
7 sent to you in advance for your review.

8 (Witness reviews the document.)

9 THE WITNESS: Is there a date on this  
10 letter?

11 BY MR. CHERTOFF:

12 Q That's the way I got it. There may be a  
13 fax line -- there's a fax line at the top. There is  
14 some other documents, if it's 2104 to 2106, I don't  
15 know if that's part of the same document or not.

16 MR. PORTNOY: There also appears to be a  
17 cover page.

18 MR. CHERTOFF: I don't have that.

19 MR. SACHS: Well --

20 THE WITNESS: What's the cover page?

21 MR. CHERTOFF: If you want to show that to  
22 the witness.



1 MR. SACHS: If we can hear the question  
2 perhaps it would help us.

3 BY MR. CHERTOFF:

4 Q My question is, do you recognize this  
5 document as one sent to you by the Treasury for your  
6 review before it was forwarded to Congress in  
7 response to Senator Riegle's questions?

8 A I don't know if this was forwarded to me  
9 for review in advance or not. I don't know the date  
10 of this -- of this letter so it's hard to tell.

11 Q Do you remember at some time regarding the  
12 Treasury responses to Senator Riegle's questions?

13 A Senator Bond.

14 Q And Senator Riegle's questions, yes.

15 A I know there were several requests for  
16 information that came from Senator Bond or from the  
17 committee from Chairman Riegle that Senator Bond had  
18 posed, and I know I -- I had seen and reviewed  
19 responses.

20 It seems to me there was more than one set  
21 of questions or responses, I don't remember if I saw  
22 this or not.

1 Q You don't recall?

2 A No.

3 Q After -- you testified about a meeting on  
4 July 1 with the witnesses and the lawyers from the  
5 White House where you had certain talking points and  
6 you discussed the pending internal review that was  
7 going to begin, do you remember that?

8 A Right. We're back on July 1?

9 Q Right.

10 A Okay.

11 Q After that, did you have any other meetings  
12 with groups of attorneys for witnesses?

13 A Yes.

14 Q How many?

15 A I don't remember.

16 Q Approximately when did you have those in  
17 July?

18 A I don't remember, I think it was closer to  
19 the start of the hearings.

20 Q How many did you have?

21 A I think you already asked me that, and I  
22 said I don't remember.

1 Q Why did you have them?

2 A I believe it was to explain what we  
3 understood about the process that was going to be  
4 conducted for the hearing. It was essentially -- I  
5 believe procedural in nature, what kinds of questions  
6 we thought would be presented from them, what the  
7 format would be, who would be asked, who would be  
8 sitting on what panel, discussing opening statements,  
9 that sort of thing.

10 Q I'm going to show you a page from a diary  
11 when was just produced to us today, and I'll show it  
12 to Mr. Portnoy page S9603, it's an entry for  
13 Wednesday, July 20th, and I'll ask you to read  
14 what -- the only writing on the page that's visible?

15 A This is not a diary, it's a calendar.

16 Q Okay, calendar.

17 A Okay. It says 472, which is probably a  
18 conference room, in the old DOB and then it says  
19 Bennett, Berger and, Simon, Judy Taylor, Berger,  
20 Beyers, and then it says 2:30 Turk, I think that it  
21 says Turk.

22 Q And what does that denote?

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1 A I believe it would denote that at least on  
2 the 20th at some point I had scheduled an  
3 8:00 o'clock a.m. meeting with those people.

4 Q Did it happen?

5 A I don't know if it happened with those  
6 people or on that day, but it could have.

7 Q You don't remember?

8 A I don't remember precisely. I believe that  
9 I did have a meeting with a group that would have  
10 included at least some of these people, probably  
11 around the 20th.

12 Q Now, let me show you 9604 for  
13 identification, series S, and ask you if you can read  
14 the writing there.

15 A Well, this is -- this has got 476, Thursday  
16 July 21st, it's got Bennett, Sabrin, Taylor, it looks  
17 like Berger, Simon, Snyder, Kreigel, Sabrin again,  
18 Boyd, and then it's got Judy crossed out, and then it  
19 it's got 2:30 Turk.

20 Do you want the rest of this?

21 Q Sure.

22 A Then for Friday, July 22nd, it says Altman

1 at 9:00 a.m., House/Senate.

2 Q Now, directing your attention to the  
3 Thursday entry, does that denote a meeting with  
4 defense lawyers for individual witnesses?

5 A Well, again, the fact that the -- on the  
6 20th, I've got a meeting with some of these same  
7 people, it suggests to me maybe I had something  
8 scheduled on the 20th, and then later rescheduled it  
9 on the 21st, I don't know, but one time or another.

10 Q Can you tell us who the witnesses are that  
11 correspond to the lawyers on let's say the entry for  
12 the Thursday?

13 A Well, Bennett and Sabrin represented  
14 Mr. Ickes; Taylor and Berger represented both  
15 Mr. McClarety and Ms. Caputo, Simon together with  
16 Judy represented Mr. Garin, Snyder represented  
17 Mr. Lindsey; Kreigel and Sabrin, which might be why I  
18 have Sabrin twice, represented Mr. Pedusto, and Boyd  
19 represented Mr. Klein.

20 Q Did most of these lawyers either at the  
21 meeting that occurred on or around this day or  
22 in -- or shortly before or after the meeting furnish

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1 you with transcripts of their witnesses' testimony  
2 before the Inspectors General?

3 A I don't think so.

4 Q Do you know what was the discussion in the  
5 meeting about exchanging transcripts?

6 A I don't recall that that was discussed.

7 Q Do you know why a number of the lawyers  
8 chose to send the White House transcripts of their  
9 clients testimony before the Inspectors General?

10 A I think we've been through that several  
11 hours ago.

12 Q Do you have any recollection about why?

13 A Not beyond what I've already talked about.

14 Q Were there meetings with counsel for the  
15 individual witnesses the following week which to say  
16 the week of -- beginning Sunday, July 24th, after you  
17 had received the transcripts from Treasury?

18 A On July 24th?

19 Q On or after July 24th, during the balance  
20 of that week.

21 A I believe there was a meeting on the  
22 evening of the 24th.

1 Q That's a Sunday.

2 A Right.

3 Q Who attended the meeting?

4 A I believe lawyers for almost all of the  
5 White House witnesses, if not all of them, attended  
6 the meeting.

7 Q Where did the meeting take place?

8 A In one of the conference rooms in the  
9 fourth floor of the old DOB.

10 Q And what was the purpose of this meeting?

11 A The purpose of the meeting was to provide  
12 the lawyers with a draft of Lloyd's testimony and the  
13 attached chronology and tell them that this is where  
14 we understood the facts to lie and -- as in to be  
15 stated, and we wanted to make absolute certain that  
16 there wasn't anyone who disagreed or that we had made  
17 a mistake or there was anything inaccurate.

18 And if someone thought we had been unfair,  
19 we wanted to give them an opportunity to tell us why  
20 we were wrong.

21 Q This was the chronology which as of July  
22 24th had been benefitted by your having received the

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1 Inspector General transcripts; correct?

2 A I think by that time, we had -- Sharon had  
3 reviewed the transcripts, she had probably and she  
4 had annotated that earlier chronology, and so this  
5 particular chronology that we were presenting to  
6 these folks would have been fairly close to complete.

7 I mean it would have been what we regarded  
8 as very close to the last draft, and we were giving  
9 these folks an opportunity to tell us if we had it  
10 right.

11 Q Did you hand it out?

12 A Hand it out, a draft?

13 Q The draft.

14 A Yes, we handed a draft to every person.

15 Q Did you let people take it with them?

16 A No, we did not, we got them back.

17 Q Did you let people take notes?

18 A No.

19 Q Okay. Did you indicate to the lawyers in  
20 the room on that evening that the chronology had been  
21 prepared in light of the transcripts which had been  
22 received from Treasury?



1 A Not that I recall.

2 Q Was there discussion in the group about  
3 particular points?

4 A There was not a group discussion.

5 Q You took -- individual people came in and  
6 approached with suggestions or criticisms or  
7 observations?

8 A We sat everybody down around a big  
9 conference table, passed out these -- the draft,  
10 explained the ground rules, and then gave people an  
11 opportunity to read the chronology, mark it up in any  
12 way they wanted to, and then one by one they came and  
13 spoke to Lloyd, to me or to Sheila -- I believe  
14 Sheila participated in this and explained any  
15 concerns or issues they had with the way we had  
16 stated the facts and then gave us the draft that they  
17 had marked up.

18 Q Did someone -- do we know where those  
19 marked-up drafts are?

20 A I took the marked-up drafts and then went  
21 through them doing the final version of the  
22 chronology, and as I completed my review of each one,

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1 I threw it out.

2 Q Whose idea was it to have this assembly?

3 A I think we had contemplated from the very  
4 beginning some opportunity for the people who we had  
5 interrogated to review our conclusions about their  
6 conduct before they were presented finally to the  
7 President and the Congress. And I think that's  
8 actually reflected in some of the early work plans  
9 that had been developed for this review.

10 So it was an idea that -- that seemed  
11 consistent with the way one would go about an  
12 internal review. I don't remember as we got closer  
13 to the actual time we did it if, you know, somebody  
14 created it as a new idea, but I think it had always  
15 been contemplated.

16 Q So your conception going into this internal  
17 review is the process for conducting an internal  
18 review would be to take a draft of the final plot and  
19 then circulate it to everybody for comments?

20 A I don't know if going into it we had  
21 anticipated that, because I think frankly going into  
22 it, you know, and thinking in May and June about how

1 we were going to do this, I don't think anyone  
2 thought it wouldn't be until June 30th that Fisk  
3 would say go, and we had such a brief time to  
4 accomplish all this.

5 I think in ideal circumstances, one  
6 normally wouldn't have a group meeting like this so  
7 close to the completion or the need to make the  
8 report to Congress, yes, so that one might do it a  
9 little differently if one had the luxury of time.

10 But this was certainly consistent with the  
11 kind of opportunity we thought it necessary to give  
12 people before we completed everything. We needed to  
13 make sure that our conclusions about the conduct were  
14 absolutely accurate, and that if anybody had a  
15 problem with the way we had stated something that  
16 they had an opportunity to review their concerns with  
17 us.

18 Q Everybody got the identical document?

19 A Yes.

20 Q Was there a document laid out along the  
21 lines of the draft that we had earlier discussed,  
22 that is to say, with each event in accordance with

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1 the individual witnesses description?

2 A No, it looked much more like the final  
3 chronology that actually was submitted with Lloyd's  
4 testimony.

5 Q And that -- and so, therefore, it was a  
6 single version of events? In other words, it was a  
7 flow of events rather than a series of individual  
8 witness statements concerning each particular  
9 episode?

10 A Well, I think if you -- if you reread the  
11 chronology that -- that was submitted with Lloyd's  
12 testimony, that that isn't exactly -- you know,  
13 precisely a flow events, it will say this person said  
14 this and that person said that.

15 So it's certainly a condensation of the  
16 information contained in the longer chronology that  
17 we reviewed earlier, but it's not a flow of events as  
18 you're describing it.

19 Q Did you regard giving the individual  
20 lawyers on that Sunday night this chronology which  
21 contained incorporated within it some of the  
22 information that you had obtained from the

- 1 transcripts of the Inspector General depositions?  
2 Did you regard that as consistent with the  
3 restriction that Mr. McHale had imposed the day  
4 before on July 20th?  
5 A Yes.  
6 Q Did you think about it?  
7 A I don't know if I thought about it  
8 precisely. I don't think it was obvious to me that  
9 it wouldn't be consistent, and it's not obvious to me  
10 now, so I don't recall that I lingered over the  
11 question.  
12 Q Did you discuss it with Mr. Cutler?  
13 A Discuss what?  
14 Q Whether showing individual witnesses  
15 attorneys a document that incorporated some of the  
16 information contained in the transcripts, whether  
17 that was consistent with the restriction placed on  
18 the transcripts by Mr. McHale.  
19 A No.  
20 Q After that meeting on July 20th, were there  
21 any other group meetings with attorneys --  
22 A I don't believe so.
- 

- 1 Q -- through the end of the hearings?  
2 A I don't believe so.  
3 MR. CHERTOFF: Okay, that's it.  
4 MR. WITTEN: Before you go off the  
5 record --  
6 MR. SACHS: Just a moment, please.  
7 (Discussion off the record.)  
8 THE WITNESS: Can I point something out?  
9 BY MR. CHERTOFF:  
10 Q Sure.  
11 MR. WITTEN: You might want to begin by  
12 saying it's 10:40.  
13 THE WITNESS: It's 10:40.  
14 The meeting that we had on the 24th with  
15 all the lawyers would have been one day after we  
16 received the McHale transcripts, and I don't know,  
17 given the sequence and the time constraints, that  
18 Sharon who was tasked with the challenge of reading  
19 all those transcripts would have or could have  
20 completed that review sufficiently to have  
21 incorporated or included any changes in this document  
22 that we showed all these lawyers.



1           So even -- even -- I'm not -- I can't be  
2 sure that the draft that we shared with people had  
3 the benefit of her review of the transcripts that had  
4 been received from McHale.

5           BY MR. CHERTOFF:

6           Q   But since -- I'm only asking the questions  
7 because you volunteered the statement --

8           A   That's fine.

9           Q   You understood though as of July 23rd,  
10 you -- you, you as the people collectively, had a  
11 sufficient working knowledge of what was going on in  
12 the investigation to understand that there were  
13 certain witnesses who were more important than  
14 others; correct?

15          A   As a general matter? Yes.

16          Q   In this investigation. You certainly would  
17 have had time in the period of the day or a little  
18 more than a day to look at Mr. Altman's testimony and  
19 Mr. Hanson's testimony, correct, and -- Ms. Hanson's  
20 testimony; correct?

21          A   Well, Altman we interviewed ourselves, so I  
22 don't recall we all thought that critical. And

---

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1   Hanson, we got a briefing from Hanson's lawyer, so I  
2 don't know why we would have looked at their  
3 testimony.

4          Q   Why did you want their transcript?

5          A   I think the priority would have been  
6 looking at the RTC witnesses to see  
7 whether -- whether an Ellen Kulka said that somebody  
8 from the White House had contacted her, that's what  
9 the priority would have been for Sharon's review is  
10 to see whether -- where there was anyone we never had  
11 an opportunity to speak to, that was the whole point  
12 of getting these transcripts.

13          We hadn't talked to these people, and we  
14 needed to find out somehow whether anyone was saying  
15 something that was inconsistent with what we had been  
16 told by others. It was the other side, the flip  
17 side, of the contact.

18          Q   If that was the point, why didn't you  
19 simply ask for the transcripts of the people you  
20 never had an opportunity to interview?

21          A   I don't know that that wasn't something  
22 that was put on the table at some point anyway. We



1 got --

2 Q If she's going to finish --

3 MR. SACHS: I thought she was finished.

4 THE WITNESS: We got the transcripts of a  
5 number of White House officials from the lawyers, so  
6 that wasn't something we needed to rely on the IGs  
7 for, what we needed those transcripts for was to  
8 confirm that there wasn't something out there that  
9 someone had said we did not have access to that would  
10 undermine or make less than complete or accurate what  
11 we were concluding about the nature of the contacts.

12 MR. CHERTOFF: Okay, I'm finished.

13 MR. PORTNOY: Can we go off the the record  
14 and ask a question?

15 (Discussion off the record.)

16 EXAMINATION

17 BY MR. PORTNOY:

18 Q You testified that you spoke to Mr. McHale  
19 on July 23rd at some point?

20 A That's right.

21 Q And he conveyed to you in some fashion the  
22 deposition transcripts?

---

220

1 A That's right.

2 Q Do you recall what time of day you received  
3 them?

4 A I wasn't the one who received them, and I  
5 don't know what time of day they came over.

6 Q Do you recall approximately what time you  
7 learned that you would be receiving them?

8 A No.

9 Q Would it have been afternoon, morning, any  
10 recollection?

11 A No.

12 Q Do you have any specific recollection  
13 whether Ms. Conoway's comments were incorporated into  
14 the outline prior to the meeting on the 24th?

15 A I believe that some of her comments that  
16 are on that, the annotated document that we reviewed  
17 earlier that I think had the date of the 17th on it,  
18 I believe some of those comments would have been  
19 incorporated.

20 Q Do you have any reason to believe that in  
21 the course of one day Ms. Conoway reviewed deposition  
22 transcripts, suggested changes and those changes were

1 incorporated before the chronology was transmitted to  
2 counsel?

3 A That was the nature of my clarification at  
4 the end, it's hard for me to believe that there was  
5 time for that to have happened, and I have no  
6 recollection that it did.

7 Q Who had the disk for the chronology, in  
8 effect, who would have actually physically inputted  
9 changes?

10 A Me.

11 Q Do you recall doing so that day?

12 A No.

13 MR. PORTNOY: That's all.

14 EXAMINATION

15 BY MR. CHERTOFF:

16 Q I just have one follow-up.

17 Ms. Conoway didn't personally input the  
18 changes in herself?

19 A No.

20 Q She gave them to you and you typed them in?

21 A Yes.

22 Q So it's your testimony now that you didn't

1 make any changes in the chronology based on having  
2 received the transcripts?

3 MR. WITTEN: When, the 24th?

4 MR. CHERTOFF: By the evening of the 24th.

5 THE WITNESS: From the transcripts received  
6 on the 23rd?

7 BY MR. CHERTOFF:

8 Q Correct.

9 A I don't remember doing that.

10 Q You don't remember one way or the other?

11 A I don't remember one way or the other.

12 MR. CHERTOFF: All right. Thank you.

13 MR. WITTEN: Thank you everybody.

14 Thank you, Madam Reporter.

15 (Thereupon, at 10:45 p.m., the deposition  
16 was concluded.)

17

18 JANE C. SHERBURNE


19

20

21

22

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT -- JANE SHERBURNE,

ERRATA

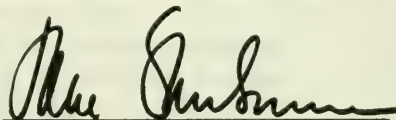
Page 166, Line 21 through Page 167, Line 19

Page 170, Lines 4-17

Page 174, Lines 17 through Page 175, Line 2

My testimony that Ms. Conaway informed me that Mr. Dougherty had said he should not have provided summaries and asked for them back was mistaken. Since my deposition, my lawyers have informed me that Ms. Conaway says that Mr. Dougherty never requested return of the summaries. Neither did he say he had not been authorized to provide them.

When Mr. Chertoff asked whether any summaries were left at the White House, I indicated that if there were any, they would have been produced by the White House to the Committee. Mr. Chertoff said he was not aware that any had been produced. I have since learned that copies of all summaries received by the White House were in fact produced to the Senate Banking Committee several days prior to my deposition. These documents are marked S 003939 through S 003997.

  
Jane Sherburne

Dated: Nov 7, 1995



DEPONENT -- JANE C. SHERBURNE**ERRATA**

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
11	14-15 & throughout	Ed Mcville	Abner Mikva	
11	15 & throughout	David Fine	David Fein	
11	16 & throughout	Mark Fabanio	Mark Fabiani	
11	16 & throughout	Mariam Nemitz	Miriam Nemetz	
14	6	of all of the mirrors	Hall of Mirrors	
18	8 & throughout	Sharon Conoway	Sharon Conaway	
18	11 & throughout	Sean Johnston	Shawn Johnston	
18	20 & throughout	Ms. Chester	Ms. Cheston	
21	9	of	to	
22	2 & throughout	Mac McCarty	Mack McLarty	
22	3	contact,	conduct a	
22	13	contact	conduct	
24	22	contact	conduct	
26	11	witness to	witness not to	
28	14 & throughout	Fisk	Fiske	
30	21 & throughout	Benson	Bentsen	
31	4	some	an	
33	16	hadn't	had	

DEPONENT -- JANE C. SHERBURNE (Page 2)**ERRATA**

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
<u>33</u>	<u>20-21</u>	Congress. It	Congress, it	
<u>36</u>	<u>13</u>	documentary	document review	
<u>38</u>	<u>13</u>	about	at	
<u>43</u>	<u>8</u>	are	were	
<u>46</u>	<u>9</u>	and the how	and how	
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<u>49</u>	<u>14</u>	was	were	
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<u>68</u>	<u>13</u>	pricing	providing	
<u>71</u>	<u>11</u>	unorthodoxed,	unorthodox,	
<u>82</u>	<u>6</u>	me, we	me. We	
<u>86</u>	<u>11</u>	IG versus	IG investigation?	
<u>86</u>	<u>19</u>	certain,	certain.	
<u>92</u>	<u>5</u>	was after	was until after	
<u>93</u>	<u>22</u>	456-1156	456-5116	
<u>98</u>	<u>15</u>	you got	you've got	
<u>99</u>	<u>9-10</u>	own interview review/	own internal review, interview	Roger

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## ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
111	MISSING FROM TRANSCRIPT			
110	4	Luwin	Lewin	
126	17	and	in	
132	5	his	the	
132	9 & 12	describe	described	
132	15	talk	talked	
140	17 & throughout	Jean	Gene	
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141	9 & throughout	Seska	Cesca	
145	2	in	the	
145	14	Solomon that	Solomon, that	
146	16	transcripts that	transcripts, that	
155	8	that had	that they had	
162	4	McHale and	McHale to	
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173	8	that a receipt	that the receipt	
182	1	sent as	sent -- as	
182	2-3	transcripts. I'm	transcripts -- I'm	

DEPONENT -- JANE C. SHERBURNE (Page 4)

## ERRATA

[illegible]



**DEPOSITION OF FRED B. VERINDER  
IN RE: S. RES. 120**

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**TUESDAY, OCTOBER 31, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of FRED B. VERINDER, called for examination pursuant to notice of deposition, at 9:45 a.m. in Room 124 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.  
Majority Associate Special Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

CHARLES J. SGRO, Esq.  
ANDREA M. SIMONTON, Esq.  
U.S. Department of Justice  
Tenth Street & Constitution Avenue, NW  
Washington, DC 20530  
On behalf of the Deponent.

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## 1 PROCEEDINGS

2 MS. FISHER: Good morning, Mr. Verinder.

3 My name is Alice Fisher. To my right is Lance Cole.

4 This deposition is being conducted pursuant  
5 to Senate Resolution 120. I don't know if you've had  
6 a chance to look at the resolution, or if you care  
7 to. It establishes a special committee administered  
8 by the Banking Committee to conduct an investigation  
9 involving Whitewater Development Corporation, Madison  
10 Guaranty Savings & Loan Association, and other  
11 related matters.

12 Specifically, section 1(b)(2)(c) of Senate  
13 Resolution 120 authorizes an investigation and public  
14 hearings into whether the Department of Justice has  
15 improperly handled RTC criminal referrals relating to  
16 Madison Guaranty Savings & Loan Association or  
17 Whitewater Development Corporation. And this will be  
18 the focus of today's deposition.

19 I will ask you a series of questions and  
20 ask you to testify under oath. If you don't  
21 understand a question, please let me know. If you  
22 want to take a break, please let me know. The

---

4

1 stenographer will prepare a record of questions and  
2 answers and the deposition will be treated as  
3 committee confidential until the commencement of  
4 public hearings.

5 Prior to the hearings, you will receive a  
6 letter from the Committee letting you know that you  
7 can come and review your transcript at the Senate and  
8 will provide an errata sheet if you care to.

9 You may be represented by counsel. I see  
10 that Ms. Simonton is here today. And I would ask you  
11 that you swear the witness.

12 Whereupon,

13 FRED B. VERINDER

14 was called as a witness and, having first been duly  
15 sworn, was examined and testified as follows:

## 16 EXAMINATION

17 BY MS. FISHER:

18 Q Could you please state your name for the  
19 record.

20 A Fred B. Verinder, V as in Victor,  
21 -e-r-i-n-d-e-r.

22

1

2 Q Could you give --

3 A I haven't given that one lately.

4 Q Can you give us your present business  
5 address, please?

6 A Willard Hotel, Suite 300, Washington, D.C.

7 Q And what is your present employment  
8 position?9 A I'm the vice president of compliance and  
10 security with Laboratory Corporation of America.11 Q Could you give me a brief background of  
12 your employment history?13 A With the FBI? Or with the Laboratory  
14 Corporation of America?

15 Q All the way through, I mean just briefly.

16 A I joined the FBI in 1969. You want to know  
17 the positions I held?

18 Q That would be great.

19 A Special agent, and then '75, supervisor.  
20 About '77, unit chief. About '79, an inspector's  
21 aide. 1981, special assistant to the administrator  
22 of drug enforcement. '82, assistant special agent in

6

1 charge. '87, inspector. '88, SAC. '90, deputy  
2 assistant director. And in June '94, retired. I  
3 took a position with Lab Corp. as the vice president  
4 of compliance which I hold at this time.

5 Enough detail?

6 Q Uh-huh. During the time period of  
7 September 1992 to November 1993 you were deputy  
8 assistant director?

9 A Criminal division.

10 Q And that was here in Washington?

11 A Correct. FBI headquarters.

12 Q Could you give me an idea of what your  
13 responsibilities were at that time?14 A They changed slightly. I always had  
15 responsibility for all white collar crime. That's  
16 the largest -- white collar, that's the largest  
17 criminal program, over 2500 FBI agents in four  
18 programs. Financial institution fraud, which we'll  
19 be talking about today, was the largest one of them.20 Civil rights, all special operations,  
21 undercover operations. That would cover the bulk of  
22 it. At different times we had different



1 responsibilities that were added on or taken away  
2 from that, but that was -- international, that was  
3 different responsibilities there but for the most  
4 part, the white collar crime program.

5 Q Who did you directly report to?

6 A Larry Potts, who was the assistant  
7 director.

8 Q And did you supervise directly all 2500  
9 agents -- did you have supervisory power over all  
10 2500 agents that you spoke about earlier?

11 A There was lots of layers between me and  
12 those 2500 agents. My role was more in policy and  
13 allocation of resources and direction of the program.

14 Q Who in the financial fraud unit did you  
15 directly supervise, who directly reported to you from  
16 that unit?

17 A That would be the section chief; at the end  
18 was Tom Kubic, K-u-b-i-c. Before that, it would have  
19 been --

20 MR. COLE: Can we go off the record for a  
21 second.

22 MS. FISHER: Sure.

1 (Discussion off the record.)

2 BY MS. FISHER:

3 Q Is there anybody from that section other  
4 than Mr. Kubic that you had a direct supervisory role  
5 over?

6 A There's one section chief in white collar  
7 crime. Before Tom, it was Bill Esposito.

8 Q Do you recall when that changeover  
9 occurred?

10 A No, I don't.

11 Q Do you believe that it was sometime prior  
12 to September '92?

13 A Yes. We're going back in time here.  
14 I'll stay with yes.

15 Q Did you have any coordination with the  
16 field offices?

17 A Regularly, with the special agent in  
18 charge.

19 Q During this time period, do you recall who  
20 was the special agent in charge in the Little Rock  
21 field office?

22 A There were two special agents in charge;

1 Tom Pettus followed by Bob Satkowski.

2 Q How often did you have contact with them  
3 directly, on a normal basis, generally?

4 A I would have contact with all the 56 SACs  
5 regarding the white collar crime program and any  
6 other programs that I had responsibility for, so it  
7 depended on the issues in that field office. I  
8 wouldn't talk to each every day, but if a major case  
9 like Whitewater developed, I might talk to them three  
10 times a day. It depended on the needs. But I talked  
11 to all regularly. "Regularly" could be once a  
12 month --

13 Q Okay.

14 A -- or in this situation, regularly was  
15 probably three times a day at times.

16 Q Okay.

17 A That might be heavy. One to three times a  
18 day, but we would talk often.

19 Q And what kind of role did you play with  
20 them, an advisory role or informational or --

21 A More supporting their efforts. Once we  
22 agreed on a game plan, logistical needs would come to

---

10

1 my attention. Fred, can you help us with agents, can  
2 you help us with cars, can you help us with  
3 additional equipment, or just calling to say how the  
4 case is progressing or just discussing a need for  
5 some assistance.

6 Q Or different issues that arose in their  
7 investigation, they would come to you?

8 A Depending on the level of the issue. I  
9 wouldn't get involved in should we do this interview  
10 or should we not do this interview.

11 Q Right. Okay.

12 A It would have to be a heavy enough issue.  
13 He was tasked with the responsibility of running that  
14 case, directing that field office. The concern with  
15 Little Rock, it is a small office and we were putting  
16 pressure to work the case and it would come up with  
17 maybe we need more resources or maybe we need more  
18 help. What about all these other cases we have. And  
19 those are the issues that we worked with them and  
20 sorted through.

21 Q Okay. Do you recall when you first learned  
22 a criminal referral coming out of the RTC related to

1 Madison Guaranty?

2 A I can't tell you the exact date. And I've  
3 searched my mind on it too. Looking at files and, of  
4 course, it's after September and before October 7th,  
5 and somewhere between that time frame I was  
6 notified. Now, I was either notified by the  
7 department or by white collar crime. And if I was  
8 notified by the department, it would either be Ira  
9 Raphaelson who I dealt with regularly on bank matters  
10 or the criminal division -- the fraud division,  
11 section, of the criminal division. If it was from  
12 the FBI side, it would be the white collar crime  
13 section, and probably Tom Kubic.

14 Why I think it probably was the department  
15 is I recall it as a question, what do you know about  
16 Madison Guaranty. Kubic would not ask me that  
17 question. He would come to me with answers and not  
18 questions. So that tells me it was the department  
19 asking that question.

20 Q And you believe that would have come from  
21 Mr. Raphaelson or Mr. Mueller; is that correct?

22 A No, generally -- I talked to Bob regularly,

---

12

1 but it would have come from Urgenson, I believe, was  
2 in charge, or Jack Keeney who I dealt with. They  
3 were the deputy level. There was a switch in the  
4 section chief level. Gerry McDowell, I think, took  
5 over from maybe from Urgenson. I don't remember the  
6 exact time line, how it all went but McDowell was  
7 the -- generally the section chief would deal with  
8 the section chief. I knew Gerry for years. And I  
9 chaired the white collar crime, the undercover  
10 committee, and Gerry was on it, so they wouldn't  
11 hesitate to pick up the phone and call me.

12 Generally I would deal more with the deputy  
13 and Potts would deal more with the Assistant Attorney  
14 General or Mueller. But there's no hard and fast  
15 rules. We all dealt with each other.

16 Q Do you recall when this first contact was,  
17 whether that was before the FBI had received the  
18 actual referral?

19 A I did not know, when I got the call, I did  
20 not know of the case, so I can't tell you if there  
21 was a referral, or not, received. I was asked a  
22 question. When you think of the 10,000 cases, I mean

1 it's not unusual not to know, and it wouldn't be  
2 unusual for me to call Kubic and he wouldn't know and  
3 even call the unit chief, Ron Dick, and he wouldn't  
4 know, or even call one of the supervisors who may not  
5 know. But it shouldn't be too hard for them to  
6 either pull indices or call the field office and --  
7 find out.

8 Q What do you recall that you did?

9 A Let's assume that my recollection is that  
10 it was the department. I would have called Tom  
11 Kubic.

12 Q Okay.

13 A And I would have asked what do we have on  
14 it. And then he would have reported back to me.  
15 Now, I can't tell you then what happened. It's  
16 somewhat of a blur as to what date and what exactly  
17 happened, but I would assume he would have told me  
18 it's a case in Little Rock.

19 Q Do you recall what else he told you about  
20 it?

21 A The fact that I was even asked about it, it  
22 would have been -- it would have either been a big

1 amount or important people involved. I wouldn't have  
2 got a call about a case if it wasn't significant. So  
3 I can only guess now that they probably they said  
4 it's a case out of Arkansas, and it's got a number of  
5 important people as witnesses.

6 Q Do you believe that --

7 A When I recall -- and time lines on this,  
8 again, escape me -- was the concern that I had that  
9 RTC had information we didn't have, and that was what  
10 was my thinking as to what was up, was there  
11 information that we should have to make a  
12 determination. And, not sinister, just why didn't we  
13 have it. And so knowing my style, I would have told  
14 them to get the facts and let's find out if this is  
15 something we should be aware of or work on.

16 Q Do you recall whether it was from the  
17 department or from Mr. Kubic that you first learned  
18 that the RTC criminal referral relating to Madison  
19 referenced the Clintons?

20 A I do not. I would assume Kubic -- if the  
21 course that I'm guessing is right is if I didn't know  
22 about the case, I would ask Tom and he would have



1 provided me a briefing. I would assume it was Kubic  
2 bringing it up and not so much the department passing  
3 it over, but it could have gone, it could have gone  
4 either way. Do you know a case of about Madison that  
5 involved the Clintons. I don't recall at that time.

6 Q Do you recall whether at that time you  
7 learned that there were references to Whitewater  
8 Development Corporation?

9 A I can't tell you the first time that the  
10 name Whitewater came to mind. More Madison Guaranty  
11 than Whitewater, but I'm -- I can't tell you. I just  
12 don't recall what it was. But soon, I mean when the  
13 briefing -- the name -- the Clintons' name was in  
14 it. Now, was Whitewater with it, maybe, probably.

15 But definitely at that point it wasn't just  
16 likely savings and loan and there's a bank fraud, I  
17 mean they would have given me more detail, because  
18 something heightened the flurry of activity that  
19 continued.

20 Q Okay. Do you recall whether when Mr. Kubic  
21 got back to you and answered your questions, whether  
22 at that time he knew that there was FBI activity

1 involving Madison, or do you recall what the general  
2 gist of the conversation with Mr. Kubic was?

3 A Other than that there was a case and it  
4 involved Little Rock.

5 Q And so do you recall whether by that time  
6 whether the FBI had received the referral?

7 A It's just something I wouldn't -- at that  
8 point, I don't know if something would trigger it  
9 that would -- the field office wouldn't have to tell  
10 us about a referral. If they had a referral, they  
11 would analyze it and decide if the case needed to be  
12 opened or not, and then there was a reporting rule  
13 more for statistical reasons and we would keep in our  
14 bank cases. At that point, they would have sent in a  
15 form. But even a supervisor at headquarters with  
16 10,000 cases wouldn't normally know every case that  
17 was opened.

18 Q Did you generally receive teletypes from  
19 the field offices at that time?

20 A Me directly, I received no teletypes.

21 Q No teletypes?

22 A Now, directly, you mean from the field --

1 Q Yes.

2 A -- that they would put on my desk?

3 Q They would be put on your desk by a unit  
4 chief?

5 A Unless there was something to my attention,  
6 which didn't happen often, but generally there would  
7 be an SAC writing to me, wanting to make sure I was  
8 in the loop. There would be other copies cut for  
9 other people, but I would have been -- now, there  
10 were other teletypes that could have been brought to  
11 my attention.

12 But normally at that point, it would be a  
13 note or a memo or something summarizing it because I  
14 would in turn forward that on up, if I thought it was  
15 significant, to the assistant director. And he would  
16 make a decision to forward it up higher if it were  
17 something that warranted their being aware of the  
18 issue.

19 Q Okay. Do you recall whether, after  
20 learning of the Madison case and the referral from  
21 Mr. Kubic, that you went to see Mr. Potts or brought  
22 him into the loop in any way?

18

1 A My office was next door to Potts, I guess,  
2 in that year, or maybe in that year it wasn't. It  
3 would have been -- I would have been on the third  
4 floor, or even the fifth floor.

5 Larry and I talked hourly, so the question  
6 was when would I have alerted him, if I heard a case  
7 that involved the presidential candidate,  
8 immediately.

9 Q Okay. Do you recall having that  
10 conversation?

11 A I do not.

12 Q Do you recall anyone else talking with  
13 anyone else about it at that early stage?

14 A I don't know. What time are you -- where  
15 are we in your mind?

16 Q At that early stage when you first learned  
17 about it, when the first conversations are taking  
18 place. I know that it's --

19 A I would have brought Potts in, we would  
20 have been right in. If I got a call from Raphaelson  
21 or Keeney, chances are either one of those people are  
22 calling me. Larry and I had lunch every day, I

1 probably would have mentioned that to him, hey, I  
2 recall Jack called, I'm looking into it or this is  
3 what it is. And we would sit again and talk, what  
4 was going on, and again I would have brought it.

5 So when I was aware probably of a phone  
6 call of significance, now if the question from the  
7 department was is there a case involving the  
8 President, I don't remember how it was asked of me.  
9 If we're making the assumption and that's where I  
10 think it would have come from, the department. I  
11 can't tell you what was said.

12 But if it was at that level I would  
13 probably have told Potts and tasked Kubic to find the  
14 details and then guaranteed, when I got the results,  
15 I would have told Potts if I didn't tell him at the  
16 front end. So there wouldn't be a long month in  
17 between there.

18 Q Right.

19 A Might be longer than hours, put it in days.

20 Q Do you recall what the next action you took  
21 was regarding the Madison --

22 A No.

1 Q I just want to show you a teletype and  
2 given that, I'll just ask you if you've seen it.  
3 It's FBI 1529. It's dated August 26, '92. And it  
4 appears to be a teletype sent from the Little Rock  
5 field office.

6 A A teletype. You want me to read the  
7 whole -- this is an Air-tel, isn't it?

8 Q An Air-tel. I apologize.

9 A Without reading it all, what we were tasked  
10 to do, or I was, is allocate resources. 2500  
11 resources, allocate them by field office based on the  
12 most urgent work. The most urgent work was defined  
13 by the strategic plan Potts and I presented to the  
14 director, where he would have agreed, this is how  
15 we're going to work cases. So every office had to  
16 have a minimum level, but some offices got where they  
17 had major cases.

18 So if this is that, and it says, you know,  
19 resource allocation, then what this would have been  
20 done -- would have accomplished, it would have told  
21 us their cases. I wouldn't see this.

22 Q Okay.



1       A   Nor would Kubic nor would Ron Dick. I mean  
2 this would be at a level of possibly an analyst  
3 advising us of -- you know, a field office advising  
4 the headquarters that they would take and compile  
5 numbers and what they would do is crunch, so by the  
6 time it would come up to me, it was a much more pure  
7 version.

8       So did I see it later? I don't know. If  
9 it discusses Whitewater --

10      Q   I believe on the second page, it does  
11 discuss the referral --

12      A   -- I might have --

13      Q   -- although it's prior to receipt of the  
14 referral.

15      (Witness reviewed the document.)

16      A   I might have been aware of it.

17      Q   I'm sorry, I didn't hear your last answer.

18      A   It's very possible, do I recall seeing  
19 it -- but would someone -- since if it dealt with  
20 this, could it have come to my attention or could I  
21 have read it, maybe. But coming in --

22      Q   Were there any special procedures at the

1 FBI that information of a sensitive nature like this  
2 would have been brought directly to someone's  
3 attention?

4      A   You know, understand that 56 offices would  
5 each send one, and if I recall right, there was four  
6 subprograms in white collar so there would have been  
7 56 times four. And you'll have to ask the unit if  
8 they read these. I'm guessing that an analyst read  
9 them and I hope an analyst read it. And then if they  
10 would crunch numbers for us and would they do it  
11 immediately.

12      Larry and I changed the reporting of this  
13 because this required a lot of work from the field  
14 office and a lot of it wasn't getting read. So we  
15 tried to minimize. They used to be like that  
16 (indicating) and so we started to cut down on the  
17 detail and it never got read. We had volumes when I  
18 was an inspector. That was an issue that I raised  
19 about all of this. So you'll have to ask the  
20 mechanics of how they crunched the numbers and then  
21 gave me recommended levels.

22      So I look at Little Rock. If it didn't



1 come out of line, I'd say it was okay. If they  
2 wanted 20 more agents for Little Rock, I would say  
3 what's the justification, and then they would bring  
4 up something like this.

5 Q I see.

6 A Does that make sense?

7 Q Uh-huh.

8 A If you need --

9 Q Do you recall having a meeting with  
10 Mr. Raphaelson, Mr. Mueller, Mr. Kubic and  
11 Mr. Kendrick regarding the criminal referral in early  
12 August, possibly around August 8th, 1992?

13 A August?

14 Q I mean October 8th, 1992?

15 A I had lots of meetings with Ira. I don't  
16 want to say once a day, but we could have been on the  
17 phone once a day, met regularly. With Mueller  
18 sometimes weekly which was different in that  
19 administration, and then in the following  
20 administration where we didn't have regular meetings  
21 and that's the reason it registers with me.

22 I can't tell you that there was a meeting

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1 on October 8th but if there was a meeting with  
2 Mueller and Raphaelson, I would have been there. I  
3 mean just that's the way it worked. Kubic wouldn't  
4 go over. If there was a meeting with Mueller,  
5 there's a good chance Potts was there. But I can't  
6 recall a meeting taking place on that date with this  
7 case. But do I believe it happened, sure.

8 Q Do you recall the first time you met with  
9 them regarding the Madison referral?

10 A I cannot tell you that there was a meeting  
11 that took place. But did we talk about it, I'm sure  
12 we did, telephonically and/or in person, but that's  
13 not unusual. We talked. With Ira, it would be  
14 unusual to deal regularly with Mueller, it wouldn't  
15 be unusual to deal regularly with Ira of issues that  
16 might not reach the Mueller level, but that's because  
17 if it dealt with banks, it would definitely reach the  
18 Ira level, who had overall responsibility for the  
19 bank.

20 Q After realizing that you speak very  
21 frequently with Mr. Raphaelson, after first learning  
22 of the Madison Guaranty criminal referral coming out

1 of the RTC, do you recall the substance of any of  
2 those conversations with Mr. Raphaelson about it?

3 A Other than the fact that we were going to  
4 obtain the details, what I recall at that point, we  
5 didn't have details. We had information that was  
6 furnished us by RTC. I don't know if we had all the  
7 details, but I don't believe we did because I  
8 remember that we were pushing with Ken Donahue to get  
9 to Kansas City where more records were.

10 And I think the U.S. Attorney had a lot of  
11 records that we wanted to review. I think that we  
12 had a referral, a one-page, two-page referral form,  
13 and not enough details in those to tell if it was a  
14 major case, minor case.

15 Q Did anyone from the Department of Justice  
16 give you any direction with regard to what action the  
17 FBI should take on referral?

18 A No, other than what are the facts.

19 Q Did Mr. Potts give you any direction on  
20 what action the FBI should take with regard to the  
21 referral?

22 A Potts -- more or less, we thought alike on

1 a lot of these issues -- and he wouldn't have to. If  
2 there was a case of significance, we needed to find  
3 out what it dealt with and he would have been the  
4 signing authority, but for the most part, we would  
5 discuss we need to find out and send a communication  
6 and then do it.

7 Q Do you recall reading the referral around  
8 this time?

9 A I don't know if I ever read the referral.  
10 I don't recall reading it, just because it wouldn't  
11 be normal for me to look at referrals unless there  
12 was some concern on what it was about. We had  
13 briefings, the normal course was each section -- and  
14 this was just one of many problems going on, I mean  
15 this wouldn't take more than a small part of my day.  
16 I mean there were other things, undercover operations  
17 going on, and other corruption cases -- corruption  
18 cases going on, fraud against the government cases, I  
19 would have been hitting on civil rights issues. So  
20 it would have been constant.

21 So generally the style was Kubic and the  
22 unit would come in, brief me, decisions would be made

1 and they would go out. And that might not even  
2 happen every day.

3 Q Do you have an understanding that, when the  
4 referral was received by the FBI, the exhibits to the  
5 referral were not attached?

6 A What I recall is the U.S. Attorney had a  
7 lot of the records and a lot more records were in  
8 Kansas City at RTC.

9 Q Is it your understanding that the direction  
10 was given to go look at those records at the U.S.  
11 Attorney's office?

12 A Absolutely.

13 Q And in Kansas City?

14 A We asked for the records in Kansas City and  
15 I don't know when, if we ever received them. I'm not  
16 sure how that all worked out, when that all, if I've  
17 got dates confused or what, but two things that  
18 registered: Records in the U.S. Attorney's office,  
19 records in Kansas City.

20 Q Do you recall the scope of the allegations  
21 from the first referral, or what you learned about  
22 the scope of the allegations?

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1 A A bank case involving check kiting with  
2 witness, significant witnesses involved. I remember  
3 giving the instruction when this was going out, and  
4 I'm sure it was echoed by Larry Potts, is that find  
5 out the facts but do nothing, don't interview, don't  
6 serve subpoenas, don't make it known, don't give a  
7 press release which we wouldn't, but don't do  
8 anything.

9 Look at it, come back and let's discuss it  
10 and then talk to the U.S. Attorney about it and find  
11 out if there's any prosecutive merit on this case.

12 Q Do you recall that the allegations included  
13 unauthorized loans as well as check kiting, diversion  
14 of funds?

15 A I don't recall, but it wouldn't surprise me  
16 if that was made known to me.

17 Q Do you recall that the FBI agents in Little  
18 Rock had met with the U.S. Attorney's office?

19 A Uh-huh.

20 Q Do you recall what the substance of that  
21 meeting was?

22 A We had instructed Little Rock to review the



1 records, and then we -- the U.S. Attorney Banks,  
2 rendered an opinion that McDougal was previously  
3 prosecuted and acquitted and didn't want to spend  
4 resources on a case that in his opinion didn't merit  
5 prosecution. And there were other bigger cases in  
6 his district that did merit prosecution.

7 Q Did you meet with Mr. Banks?

8 A No, never met him, never talked to him, I  
9 don't believe.

10 Q Did you speak to anyone from the U.S.  
11 Attorney's office in Little Rock at that time?

12 A I do not recall talking to anyone, which  
13 normally, I wouldn't. That's the prerogative of the  
14 U.S. Attorney. Then -- I'm sorry, the SAC,  
15 prerogative of the SAC, so I wouldn't do that. I  
16 wouldn't say there's been a time that I have, but I'm  
17 giving you best recollection. I normally wouldn't do  
18 that. I don't recall ever talking to anyone in the  
19 U.S. Attorney's office. I did talk to the then-SAC,  
20 Don Pettus.

21 Q Okay. And what was the substance of your  
22 conversations with Mr. Pettus?

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30

1 A I think there were a series that dealt with  
2 the FBI headquarters instructing him to do things and  
3 his concern about, I guess, reluctance on the part of  
4 the U.S. Attorney to do it and review records and be  
5 on equal footings, know exactly what's in those  
6 records, give us all details and then you can meet  
7 with the U.S. Attorney, have that conversation and  
8 then talk to us.

9 That resulted in a phone call in my office,  
10 to me for sure, and Potts and SAC Pettus. Now, who  
11 would have been on, who else might have been in my  
12 office or who else might have been in Pettus's  
13 office, I don't know, but I can tell you those three  
14 people were. And it got heated in the sense that I  
15 think Don was thinking that we were saying go and do  
16 these things and review records and look at it and  
17 make a determination. And he was more or less  
18 saying, he had his own opinions because the reason  
19 that sticks in my mind is Potts said when it got  
20 heated, he said let me just talk to Pettus on my  
21 own. It was my office, get out of my office.

22 That's what sticks in my head. And I know



1 it was resolved, teletype was sent in, he discussed  
2 it with the U.S. Attorney, U.S. Attorney said no.  
3 And Don reviewed whatever records we asked him to  
4 review and felt that he was in concurrence with the  
5 U.S. Attorney. And that was the end of the story.

6 Q This phone call where it got heated, help  
7 me understand exactly what Mr. Pettus's concerns  
8 were.

9 A I don't know if he wasn't desirous of --  
10 either had the conversation with the U.S. Attorney,  
11 didn't know why he had to review the records. And my  
12 position is we're the experts of reviewing records.  
13 We're the accountants, we're the knowledgeable  
14 resources.

15 And I think it was, I never did see how  
16 many records were there, but from what I recall,  
17 there was a lot of them. And I think his point would  
18 have been if the attorney is not going to prosecute,  
19 why should I even review them.

20 And my response is we got to know what's in  
21 there if there is an allegation. Something about the  
22 news media was asking questions, we got to just be

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1 right. We can't not be sure what was in there.

2 So he went back and reviewed them, came  
3 back to us and said hey, I've reviewed them, and the  
4 U.S. Attorney and I are in agreement.

5 Q Did anyone from headquarters ever review  
6 the records?

7 A At that point I don't think so. I mean it  
8 wouldn't have been unusual for them to ask to send us  
9 records. I don't know if they did send anything,  
10 everything in there, but they could have and we could  
11 have done a concurrent review.

12 Q But you didn't review the records?

13 A Huh-uh. That would be a level pretty low,  
14 if they were doing anything like that at  
15 headquarters, like a grade 14 level.

16 Q Would it be norm -- what is the  
17 relationship between the FBI field offices and the  
18 U.S. Attorney's office, would it be normal that the  
19 FBI deferred to what the U.S. Attorney wants to do in  
20 the preliminary stages of an investigation?

21 A Well, they have to authorize prosecution.  
22 There's a rub. And with all kindness, I say to my

1 dear friend on my left, the U.S. Attorney's office  
2 sometimes want to become prosecutors and  
3 investigators and I used to draw a line. We're the  
4 investigators. I promise we won't prosecute but  
5 we'll do the best investigation we can.

6 And there was, as the U.S. Attorney's  
7 office becomes more aggressive and cases become more  
8 complex, that sometimes this line would come back and  
9 forth. The role that the FBI has is to deal with the  
10 U.S. Attorney as your partner. The two of you decide  
11 on what's the priorities, criminal problems, in this  
12 district. And he would have his or she would have  
13 hers and we would have ours, intelligence. And we  
14 would sit down and say yes, we agree these are the  
15 priorities.

16 Okay. Then let's talk about major cases,  
17 do you agree that if we work these cases, or these  
18 type of cases or this case, will you give me five  
19 agents and I'll give you three U.S. Attorneys or U.S.  
20 Attorneys.

21 So that partnership must exist for an  
22 office to be successful. So rarely would you go to a

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1 U.S. Attorney in the front end unless it was so  
2 significant it would require the partnership  
3 immediately. You would investigate the cases and  
4 then bring it to the U.S. Attorney's office or they  
5 couldn't render an opinion unless they had the  
6 records. And in this case, they had the records,  
7 which wasn't unusual that RTC would send referrals to  
8 both the FBI, and sometimes the Secret Service, and  
9 sometimes the U.S. Attorney's office.

10 Q That was not unusual?

11 A No, not with -- normally we would get the  
12 referral from an informant or from a bank. Even  
13 sometimes it would go directly to the U.S. Attorney,  
14 but normally it would come to the FBI, and then you  
15 take it and present it. So a conversation like that  
16 happening between the FBI and the U.S. Attorney's  
17 office is normal.

18 Q Okay.

19 A So I would expect our special agent in  
20 charge personally know the U.S. Attorney and be  
21 personally able to meet with him or her and discuss  
22 what the matter was about and come to an agreement.

1 Then if it didn't -- this is unusual, 10 percent or  
2 less, if they were unhappy with that, they would come  
3 to FBI headquarters, give me the facts, and it would  
4 generally be at my level. And I would go across the  
5 street to the Department of Justice and represent to  
6 them in a resolution of the matter. And most of the  
7 time, you know, maybe 50 percent of the time, it  
8 would be resolved with a phone call to the U.S.  
9 Attorney and then we would figure out some course of  
10 action. There has been the occasion where then the  
11 Department takes the case and prosecute it.

12 Q Did you think that it was unusual that  
13 Mr. Pettus hadn't reviewed the records prior to --

14 A No, because he didn't have them.

15 Q Do you recall what, whether he wanted to  
16 review the records -- I'm still having problems with  
17 this conversation -- that was a heated  
18 conversation -- and I'm trying to understand where he  
19 was coming from.

20 A This is recall and maybe Don can fill in  
21 and maybe Larry can fill in some pieces. I got the  
22 impression that the U.S. Attorney and he already

1 discussed it, based on what Don read and what the  
2 U.S. Attorney had, they reached a conclusion that  
3 this was not worthy of prosecution.

4 We're in turn saying review the records,  
5 have you reviewed the records. No, I haven't. Go  
6 review the records and then come back and tell us  
7 that you've reviewed the records and you are  
8 satisfied with this. And then he did and came in  
9 with a communication sometime in October and said  
10 there is no case here, the U.S. Attorney won't  
11 prosecute, help us work other cases. And that's what  
12 was resolved.

13 Q Do you recall that the U.S. Attorney  
14 believed that there was allegations of -- well,  
15 strike that.

16 Do you recall learning that the U.S.  
17 Attorney felt that the evidence may indicate criminal  
18 activity on the part of the captioned subjects, the  
19 McDougals and Ms. Anspaugh?

20 A Something along the lines that there might  
21 be criminal activity but he's already been  
22 acquitted. This acquittal in the past was bothering



1 the U.S. Attorney; what was bothering the U.S.  
2 Attorney is I've already been beaten once -- and I'm  
3 summarizing -- I've already been beaten once and I'm  
4 not sure I want to risk it again with my resources.  
5 There's too many other good cases. And that tied  
6 into him other cases that he was mentioning, other  
7 banks in Arkansas.

8 Q Did Mr. Pettus have a view as to the  
9 criminal activity that was alleged in the referrals,  
10 and the evidence relating to that?

11 A Alice, I don't recall that.

12 Q Okay. Do you recall that they made --

13 A Other than that -- let me expand. Other  
14 than he was recommending that we don't work it. I  
15 mean that was accept the declination; in other words,  
16 we accept the U.S. Attorney's nonprosecutive position  
17 on it. So if he would have felt strongly about I  
18 think there's criminality here, we got to fight this,  
19 no.

20 So did he have an opinion on it, it must  
21 have been -- and you'll have to ask him this -- it  
22 must have been I agree with you, U.S. Attorney,

1 because this is what I heard. I would believe if he  
2 didn't agree, he would have, in this case, he would  
3 have come back and not send me a communication saying  
4 we agree, there's nothing here. We agree with the  
5 U.S. Attorney, there's no case here.

6 Q Now, is it your understanding that the  
7 prosecutive opinion by the U.S. Attorney was that  
8 there would be no prosecution or that he was holding  
9 a prosecutive opinion in abeyance for the time?

10 A I'm not --

11 Q I could show you a teletype to refresh your  
12 recollection but since you probably didn't see it.

13 A I'm not sure. I mean you can always go  
14 back and open a case when there's no action taken.  
15 It was a matter of a declination at that time.

16 Alice, I do not recall if they said we'll  
17 go back and reopen this later. I recall a line was  
18 drawn and at this time, we're not working it and no  
19 resources were committed to it.

20 Q At that time. Okay. Do you recall  
21 discussing that decision with Larry Potts?

22 A Pardon?



1 Q Do you recall discussing that decision with  
2 Larry Potts?

3 A I'm sure.

4 Q Do you recall the substance of the  
5 discussions?

6 A No.

7 Q Once the decision was made that at that  
8 time no more resources would be --

9 A No more agents would be put on it. I just  
10 remember that night and when I remember the  
11 communication and we both accepted Pettus's position  
12 that, at that time let's just say, it was not worthy  
13 of investigative effort.

14 Q I want to show you a letter from Charles  
15 Banks to Don Pettus and just -- it's FBI 1000, dated  
16 October 16th, 1992 and ask you if you've ever seen  
17 this letter.

18 (Witness reviewed the document.)

19 A I've heard this. Now did I read this  
20 letter, it's so strong, I probably did. I'm sure  
21 they would have brought this to my attention, but if  
22 you would have told me what was in the letter, I know

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1 the contents, that he was refusing to work the case  
2 and I know that he was very angry that -- which could  
3 have, after seeing this, that might have heightened  
4 Don Pettus's concerns about coming back to us. I  
5 know the contents.

6 Q Okay. On the second page of the letter,  
7 Mr. Banks writes "I will be happy to meet with you to  
8 discuss a limited examination and possibility of  
9 proving some of the allegations regarding Mr. and  
10 Mrs. McDougal and Mrs. Anspaugh in due time," is the  
11 beginning of that sentence?

12 A In due time.

13 Q And I just wondered if that's refreshes  
14 your recollection that it wasn't, the investigation  
15 wasn't completely closed off at that time but was  
16 going to be held in abeyance for the immediate  
17 future, and until at least after the election?

18 A My recall was that this case was not held.  
19 You can ask the field office that question. I don't  
20 believe this case would have been held pending  
21 inactive. I think this case would have been closed.

22 If you ask me, my best recall would have

1 been at that date the case was closed. If they were  
2 planning to reopen it, I don't know on what basis.

3 (Discussion off the record.)

4 BY MS. FISHER:

5 Q Do you recall, Mr. Verinder, that there  
6 came a time sometime around July or August of 1993  
7 when issues regarding Madison Guaranty resurfaced?

8 A Yes. What date again?

9 Q Sometime around the summer of 1993.

10 A We had an undercover operation going, and I  
11 mentioned to you -- so I would have had it from two  
12 directions. I was chairman of the undercover review  
13 committee and also I would have been made aware of  
14 undercover operations. I recall the name of David  
15 Hale surfacing. My recollection is it's earlier than  
16 July.

17 Q Okay. Well, tell me what you recall, was  
18 it May or earlier than May?

19 A May.

20 Q May. Okay. Tell me how Mr. Hale's name  
21 came to your attention.

22 A Small Business Administration --

1 MS. SIMONTON: Excuse me. Can we have a  
2 discussion here? Can I talk to him about what he's  
3 going to say because I want to make sure that any  
4 pending undercover operations that were not tied to  
5 David Hale are protected since he's no longer with  
6 the bureau --

7 MS. FISHER: Absolutely. Absolutely.

8 (Witness conferred with counsel.)

9 (Recess.)

10 THE WITNESS: I knew of an undercover  
11 operation, and I knew of Hale, and that really is all  
12 that pertains to this. This has no bearing on  
13 anything else. That name came -- it came to me. An  
14 SBA referral -- now, when would this all come to my  
15 attention, I can't tell you exactly the referral --  
16 what I do recall on Hale was The New York Times story  
17 and statements being made and being involved in that  
18 discussion of what are we doing with this case and  
19 how does it tie into any other cases. Now, that  
20 would have moved on somewhat in that time frame to  
21 more into summer.

22 BY MS. FISHER:

1 Q Well, what do you recall about first  
2 hearing about Mr. Hale's name? What is your first  
3 recollection of this issue?

4 A Probably an undercover operation.

5 Q Can you describe what that operation would  
6 have been?

7 MR. SGRO: No.

8 MR. COLE: I think we'd at least like to  
9 know whether Mr. Hale was the subject of that  
10 undercover operation, whether it had anything to do  
11 with Capital Management Services, which is the  
12 subject of our resolution, and how and in what  
13 context Mr. Hale's name became involved.

14 We recognize that we don't want to do  
15 anything that impinges on grand jury secrecy issues  
16 or ongoing undercover operations, but short of that I  
17 think we have a right to ask about it.

18 MS. SIMONTON: Can I ask him the questions  
19 that I think are appropriate for him to answer, and  
20 then beyond that if you want more information I would  
21 like a formal request from the Committee concerning  
22 any further information about ongoing criminal cases.

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1 MR. COLE: Well, that was a question that I  
2 said has not been made clear on this record, to the  
3 best of my understanding, as to whether or not this  
4 is an ongoing investigation. So is this an ongoing  
5 undercover investigation, ongoing today?

6 MS. SIMONTON: I'm going to object to all  
7 questions about the undercover operation concerning  
8 Mr. Hale -- well, in which Mr. Hale's name came to  
9 Mr. Verinder's attention except, if you would like me  
10 to, I will ask him a few questions and then if you  
11 want any further information about that undercover  
12 operation, I would request that you make a request in  
13 writing at which time we will contact the particular  
14 field office, which was not Little Rock, that was in  
15 a distant part of the country and then we will find  
16 out what cases are pending, what cases are not  
17 pending, what sources are still confidential and we  
18 will respond to that request in due course. If you  
19 don't want me to ask him any questions, then I'll  
20 just leave it as a standing objection.

21 MR. COLE: Well, Ms. Fisher is doing the  
22 questioning now so I'll leave it up to her as to



1 whether she wants to let you to ask questions. I  
2 would ask, though, whether you are doing this at the  
3 direction of the independent counsel or what the  
4 Department of Justice or FBI policy is that's the  
5 basis for your objection.

6 MS. SIMONTON: My objection right now is on  
7 behalf of the FBI with respect to an investigation  
8 that the independent counsel is not aware of. Since  
9 I don't know what the independent counsel is looking  
10 at and has explored, I don't know whether the  
11 independent counsel would also have an objection  
12 concerning those matters.

13 MR. SGRO: Can we go off the record one  
14 second.

15 MS. FISHER: Off the record.

16 (Discussion off the record.)

17 (The reporter read the record as requested.)

18 BY MS. FISHER:

19 Q Mr. Verinder, was David Hale or Capital  
20 Management a subject or a target of these undercover  
21 operations that you've just described?

22 MS. SIMONTON: Okay. Except as to the fact

1 that Hale's name next came to his attention in  
2 connection with an undercover operation, we object,  
3 from the FBI's point of view, to questions concerning  
4 the details of the undercover operation and based  
5 upon the independent counsel's direction to us at  
6 this time as to the context in which his name arose  
7 during the course of that undercover operation.

8 So what -- and if the Committee wants to  
9 make a specific request for details about the  
10 undercover operation or wants to provide us with  
11 specific questions, we'd be happy to review that with  
12 the independent counsel. If they have no objection  
13 then and we resolve with our field office the status  
14 of any pending matters, because I think you can ask  
15 Mr. Verinder, if you choose, whether David Hale was  
16 the named target of that operation at its inception,  
17 that would be okay.

18 But beyond that, the context of what is --  
19 how his name came up, what role he played, if any, in  
20 connection with the undercover operation, the answers  
21 to those I don't feel he can answer at this time.  
22 That sets forth -- and we will review with the



1 independent counsel what their position is as to  
2 details of the undercover operation -- as to their  
3 position on revealing the details of the context in  
4 which David Hale's name arose.

5 MR. COLE: Well, I'll be happy, as Minority  
6 counsel, to put on the record right now in the  
7 interest of efficiency rather than waiting for my  
8 turn for questioning the two specific things that I  
9 would like further information on.

10 One would be whether Mr. Hale was alleged  
11 in this undercover investigation or suspected in this  
12 undercover investigation to be involved in illegal  
13 criminal conduct. The second question would be what  
14 was the nature of that criminal conduct, and then  
15 depending on the answers to those two questions we  
16 may request more information.

17 So if you need to consult with the  
18 independent counsel or with your colleagues at the  
19 bureau or the Department of Justice on those two  
20 questions, then I think that would be appropriate.  
21 And I don't know if Ms. Fisher has anything to add to  
22 that or not at this point.

1 MS. FISHER: I was going to ask if Mr. Sgro  
2 had any objections he wanted to state on the record  
3 on behalf of the Department of Justice.

4 MR. SGRO: To the extent that the  
5 Department has a differing view than the Bureau,  
6 first, it does not. And second, any request will be  
7 processed as quickly as possible. The Department  
8 wishes to, as you know, cooperate with the Committee  
9 to the fullest extent.

10 However, there are certain instances such  
11 as these where it requires consultation with the  
12 field office of the FBI and the independent counsel  
13 to ensure that anything that's disclosed in these  
14 hearings would not impede any ongoing investigation  
15 being conducted either by the FBI or the independent  
16 counsel. But you could have a commitment on the part  
17 of the department to resolve these issues as quickly  
18 as possible and forward the requested information, if  
19 possible, to the Committee as expeditiously as  
20 possible.

21 MS. SIMONTON: And if you want to take a  
22 break and have me call the office of the independent

1 counsel now, I'll be happy to do so.

2 MS. FISHER: We can probably do that over  
3 the lunch break, if we take a lunch break. That  
4 probably would be a good idea.

5 MS. SIMONTON: We can't accept they will be  
6 out for lunch during our lunch break.

7 MS. FISHER: Would you prefer to stop now?

8 MR. COLE: I have a feeling this won't be  
9 resolved in a phone call. I think the better thing  
10 to do is just proceed with the understanding that we  
11 may have to call this witness or other witnesses back  
12 when this issue has been resolved.

13 MS. FISHER: I want to ask a few questions  
14 that maybe he can answer based on the objections you  
15 just stated.

16 BY MS. FISHER:

17 Q And that is, was Mr. Hale or Capital  
18 Management a target of this undercover operation at  
19 its inception?

20 MS. SIMONTON: You can answer.

21 THE WITNESS: No.

22 BY MS. FISHER:

1 Q Was Madison Guaranty a target of this  
2 undercover operation at its inception?

3 MS. SIMONTON: Go ahead.

4 THE WITNESS: No.

5 BY MS. FISHER:

6 Q Did Madison Guaranty arise -- the name of  
7 Madison Guaranty arise during the context of this  
8 investigation?

9 A No. In the undercover operation?

10 Q Undercover operation.

11 A No. Did it arise? Pardon me?

12 Q Did the name Madison Guaranty also arise in  
13 this undercover operation?

14 A How?

15 Q I don't know what the operation was. You  
16 said that the name Mr. Hale arose, and I just want to  
17 know if the name Madison Guaranty arose as well.

18 A At the inception?

19 Q No, during the undercover operation.

20 MS. SIMONTON: Go ahead.

21 BY MS. FISHER:

22 Q I'm not limiting it to the inception.

1 A I don't recall. I don't recall that at  
2 all.

3 Q And this undercover operation did not start  
4 in Little Rock; is that correct?

5 A That's correct.

6 Q Did it at some time move to Little Rock,  
7 the operation?

8 MS. SIMONTON: Do you mean --

9 BY MS. FISHER:

10 Q Were agents --

11 MS. SIMONTON: If what you're saying -- I  
12 object to the extent that what you're saying is did  
13 any agents or undercover or anybody ever travel to  
14 Little Rock or contact anybody who was located in  
15 Little Rock. To that extent I object.

16 If your question is did the Little Rock  
17 office of the FBI ever open an undercover  
18 investigation, you know, based on any information  
19 then to that I don't object. In other words, in  
20 terms of the details of the undercover operation they  
21 can send people all over, and I object to anything  
22 that goes into the details of the undercover

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1 operation.

2 If, on the other hand, you want to know if  
3 Little Rock ever -- you know, the Little Rock office  
4 of the FBI ever opened an undercover investigation, I  
5 don't object to that.

6 So with that limitation you can answer.

7 THE WITNESS: Not to my recollection.

8 BY MS. FISHER:

9 Q Did any information coming out of the  
10 undercover operation lead to an investigation being  
11 opened by the Little Rock office?

12 MS. SIMONTON: Let me talk to him a second  
13 and see.

14 MR. COLE: Let's go off the record for a  
15 moment.

16 (Discussion off the record.)

17 THE WITNESS: I don't have a clue if --  
18 what I know is an SBA case was opened against Hale,  
19 which I later learned was at least part of an SBA  
20 referral.

21 BY MS. FISHER:

22 Q So what you're saying is as a result of

1 this undercover operation later an SBA case was  
2 opened against Hale; is that correct? Am I  
3 mischaracterizing?

4 MS. SIMONTON: Excuse me. Did you say as a  
5 result of the undercover operation an SBA referral  
6 was generated?

7 MS. FISHER: Uh-huh.

8 MS. SIMONTON: You want to answer that  
9 question? I mean, do you know? If you know -- don't  
10 speculate. If you know tell them what you know.

11 THE WITNESS: I'm going to -- I don't  
12 know. Now do you want me to -- in all likelihood,  
13 no.

14 BY MS. FISHER:

15 Q Maybe if you could clarify your last answer  
16 then because I must have misinterpreted it.

17 MS. SIMONTON: Can I talk to him a minute.

18 MR. SGRO: One second. Can I at least try  
19 to get through to Bates -- can we go off the record.

20 (Recess.)

21 BY MS. FISHER:

22 Q Back on the record.

1 I wanted to ask you, Mr. Verinder, whether  
2 you heard Mr. Hale's name come up prior to hearing  
3 about the SBA referral relating to Mr. Hale and  
4 Capital Management?

5 A Yes.

6 Q About how long in time prior to learning  
7 about the SBA referral relating to Capital  
8 Management?

9 A A month.

10 Q A month?

11 A In that vicinity.

12 Q Was this prior to May of 1993?

13 A No, it would have been probably around May.

14 Q Could you tell me what you learned in and  
15 around May about the SBA referral relating to Capital  
16 Management?

17 A A lot of this is not clear in recall. I  
18 wouldn't have been told about a referral on SBA.  
19 What becomes very clear is when Hale goes to The New  
20 York Times. And I become more involved at that point  
21 with a proffer with him, and he had a position he  
22 didn't want to take a hit on any charges, any



1 counts. And that was a point that we had to work  
2 through because he was making claims that he could  
3 provide valuable information, and so we worked  
4 through that aspect with him.

5 Now, at that point, SBA, we considered  
6 government fraud and that would have fit into a  
7 different subprogram because we were going to switch  
8 horses on you now and go from the white collar crime  
9 to the government fraud which is a subprogram of the  
10 white collar crime program.

11 There were four separate programs. And so  
12 the case now would be supervised in the government  
13 fraud unit, so instead of the name Ron Dick, it would  
14 be Wade, the SAC in California, Rick Wade.

15 Q Would Mr. Wade report to Mr. Kubic?

16 A Yes.

17 Q Who would then report to you?

18 A Correct.

19 Q So you had responsibility over the  
20 government fraud -- governmental fraud unit?

21 A Correct.

22 Q I want to focus back in around May of '93

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1 and prior to learning about The New York Times  
2 article or the proffer or things like that.

3 What do you recall learning about the  
4 referral or do you recall who brought it to your  
5 attention?

6 A No, I don't. But I don't think the  
7 referral hit until maybe the latter part of May,  
8 June.

9 Q Do you recall who you heard about it from?  
10 Do you recall whether it was the FBI or the  
11 Department of Justice that told you about it?

12 A I would think FBI. I don't recall  
13 discussions regarding Hale, but may have been the  
14 Department of Justice. Nothing there rings a bell  
15 that we would have talked about an SBA case involving  
16 Hale. What really comes to mind is we moved on and  
17 it became more of an issue that I was involved in.

18 Q Do you recall any discussions you had with  
19 Mr. Wade, for example, regarding Capital Management  
20 or David Hale in this early --

21 A I had lots of them but I don't --

22 Q -- in this early May, June time period?

1 A I'm not sure what was -- if it was someone  
2 was talking to me about an undercover operation or  
3 someone was talking to me about an SBA referral.

4 Q Do you recall seeing the SBA referral?

5 A I don't. No, I do not. I don't --  
6 probably in my years as a deputy, I can count on one  
7 hand the times I read a referral, maybe two hands if  
8 you say I read the 10 from under Morgan Gar- --

9 Q Madison Guaranty?

10 A Madison Guaranty.

11 MR. COLE: Careful. Morgan Garrett  
12 wouldn't appreciate that.

13 THE WITNESS: Cases are starting to run  
14 together. It's something you normally don't do  
15 unless there's a reason.

16 BY MS. FISHER:

17 Q Did you recall any discussions that you had  
18 with the Department of Justice in this time period?  
19 Do you recall any discussions you had with any  
20 individuals from the SBA?

21 A No.

22 Q In the time period May, June.

1 A I can probably tell you I never talked to  
2 anyone in SBA.

3 Q Okay.

4 A At that point, and probably even later, but  
5 at that point.

6 Q Who at the Department of Justice -- well,  
7 strike that.

8 If you were to talk to someone about this  
9 SBA referral relating to Capital Management and David  
10 Hale, who at the Department of Justice would have  
11 been that person?

12 A Probably Jack Keeney.

13 Q Do you recall any discussions with  
14 Mr. Keeney about it?

15 A About that, I can't recall, but there might  
16 have been. Something tells me there was an issue,  
17 but I don't think it was at that time.

18 Q Do you recall learning of the seizure of  
19 documents at Capital Management in or around July  
20 20th, 1993?

21 A I would have been aware of the search.

22 Q Do you recall learning about this

1 particular search?

2 A When it happened, or afterwards?

3 Q Either prior to it happening, when it  
4 happened or directly afterwards.

5 A I would have learned about it sometime in  
6 that time frame.

7 Q Do you recall specifically learning about  
8 this search at Capital Management?

9 A When?

10 Q I'm not saying when.

11 A Yes.

12 Q But do you recall specifically this  
13 search -- okay.

14 What do you recall learning about the  
15 search of documents?

16 A Nothing --

17 Q Do you recall --

18 A -- in detail other than it was a search.

19 Q Do you recall discussing it with anyone?

20 A It's possible that would have come to my  
21 attention. It would not necessarily; by policy, it  
22 wouldn't have to. But if it was something that was

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1 sensitive, it might have come to my attention. It's  
2 just after the search where it becomes more vivid  
3 because of the when Hale went to the newspaper, the  
4 proffer, the cooperation, the need to put resources  
5 on the case.

6 And they were now coming to me and saying  
7 help support all of this, which again I would have  
8 been talking about the search probably in documents  
9 recovered, and how important is this witness, and can  
10 we afford to put this amount of resources on this  
11 case; and on this individual, what can he give us.

12 Q Do you recall learning anything about the  
13 documents that were taken from the offices of Capital  
14 Management?

15 A I don't remember now what was seized. I  
16 can't even -- if you say were they important  
17 documents, I don't know.

18 Q Do you recall that there were any sensitive  
19 documents seized at the offices of Capital  
20 Management?

21 A No.

22 Q Do you recall having any conversations with

1 the FBI in Little Rock about the investigation of  
2 Capital Management?

3 A There was a request for resources. What I  
4 recall at that point, we were concerned, and I don't  
5 know why, but we were concerned about the safety. I  
6 don't know what caused safety to be an issue, but we  
7 were providing some sort of coverage of Hale after he  
8 signed the proffer or some time in that time line we  
9 were -- I don't want to use the word "bodyguard," but  
10 we were providing some sort of protection or some  
11 sort of coverage of him. And that was always some  
12 weekends and we needed resources because, again,  
13 Little Rock was a small office.

14 MS. SIMONTON: Can I consult with him just  
15 a minute.

16 MS. FISHER: Absolutely.  
17 (Witness conferred with counsel.)

18 THE WITNESS: I want to go back over that  
19 information if I could.

20 MS. FISHER: Absolutely.

21 THE WITNESS: And the record will speak for  
22 itself on facts. There was a time -- now maybe it

1 was after '93, after the newspaper articles,  
2 et cetera, it all runs together timewise.

3 But there was a time that we provided some  
4 sort of protection for Hale. It could be '94. And  
5 maybe I'm into a time zone we can't talk about.

6 And I can't tell you why the concern was  
7 there but there was a concern for his safety and some  
8 sort of coverage was given, or he was moved or  
9 something. So it could have been when he was  
10 testifying, it could have been when he signed a  
11 proffer, I don't know. So '93 might be the wrong  
12 time line. I just remember it happening.

13 And if I was provided documents, I could  
14 probably recall, but it's something that the record  
15 would speak for itself because that was something we  
16 did.

17 Okay?

18 MS. SIMONTON: If that's what you recall,  
19 yes.

20 THE WITNESS: That's what I recall.

21 MS. FISHER: Okay.

22 MS. SIMONTON: For the record, I asked him



1 to explain more his recollection, his basis for  
2 recollection and his time frames.

3 BY MS. FISHER:

4 Q Getting back to the documents that were  
5 seized at Capital Management Services, did you ever  
6 learn that, at any time up until the present, did you  
7 ever learn that there were documents removed from  
8 that set of documents that were seized at Capital  
9 Management?

10 A That records were removed?

11 Q Uh-huh.

12 A I don't recall that.

13 Q Did you ever learn at any time that there  
14 was a document or documents which may have implicated  
15 Mr. McDougal and/or President Clinton that was  
16 missing from the set of documents seized at Capital  
17 Management Services?

18 MS. SIMONTON: For the record, are we  
19 pre-Fiske or post-Fiske, or are you asking questions  
20 directed to both pre and post-Fiske information that  
21 he may have learned?

22 MS. FISHER: I'm just asking if he learned

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1 at any time.

2 THE WITNESS: I don't recall.

3 BY MS. FISHER:

4 Q Okay. Do you recall that sometime in  
5 August of '93 the FBI office in Little Rock opened up  
6 a review of Madison Guaranty?

7 A Sometime that summer they received  
8 referrals from RTC.

9 Q Prior to receipt of the nine additional  
10 referrals that were received by the FBI office in  
11 Little Rock later in '93, do you recall that there  
12 was an investigation opened relating to Madison  
13 Guaranty in the Little Rock field office?

14 A I believe a case was opened.

15 Q Do you recall why that case was opened?

16 A Possibly because it had some relationship  
17 to the Hale investigation, the SBA investigation.

18 Q Is that your recollection, that there was a  
19 nexus between the two?

20 A That a case was opened, referrals were  
21 received. The exact time line, I'm not sure; but I  
22 know there was a tie, the referrals to the Hale. I

1 mean that somehow they tied together.

2 Q What do you recall about that nexus, do you  
3 recall what that nexus was between the Madison  
4 investigation and the Hale investigation?

5 A Some of my knowledge comes from reading so  
6 if you ask me if I recall it at that moment, I just  
7 today can tell you that documents somehow tied into  
8 both investigations.

9 Q Do you recall what those documents were?

10 A Exactly, no.

11 Q Do you recall where those documents came  
12 from, what they related to?

13 A Some of this is distant recall, but  
14 possibly from the search. And I don't know if I'm  
15 drawing recollection from the wrong time lines, but  
16 I --

17 Q I realize that it's difficult. Could you  
18 give me what your best recollection is of the scope  
19 of the FBI investigation relating to Madison prior to  
20 receipt of the nine additional referrals relating to  
21 Madison?

22 A The opening of cases before the referrals?

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1 Q Yes.

2 A Other than the fact that the cases were  
3 opened or a case was opened and I believe the focus  
4 was McDougal and his wife, I can't recall much more  
5 than that except making the assumption the documents  
6 would have come from the Hale search.

7 Q Do you recall whether the scope of the  
8 Madison investigation out of the Little Rock office  
9 prior to receipt of the referrals related in any way  
10 to Whitewater Development Corporation?

11 A I do not recall, Susan -- excuse me, Alice.

12 Q Do you recall whether it related in any way  
13 to the Clintons?

14 A I just don't recall exactly.

15 Q Do you recall whether it related in any way  
16 to Jim Guy Tucker?

17 A I know the name. I don't know when he  
18 became a focus of the investigation without looking  
19 at documents.

20 Q Do you recall having any conversations at  
21 FBI headquarters with anyone relating to this Madison  
22 investigation that was opened sometime in August or

1   sometime in the summer of 1993?

2       A    Based on the referrals received?

3       Q    Prior to the referrals.

4       A    I can't recall, but in all likelihood, I  
5   would have had some conversation.

6       Q    Do you recall whether matters relating to  
7   that Madison investigation related in any way to  
8   matters which had been the subject of the criminal  
9   referral in 1992?

10      A    That the matters that were opened tied into  
11   the '92?

12      Q    Uh-huh.

13      A    I guess I would -- I don't recall, but I  
14   mean it would be somehow foolish if I didn't.  
15   Somehow they're all tied together, I think I would  
16   have been told that or would have recalled that, but  
17   at this moment to tell you there's a nexus, I don't  
18   know what it was.

19      Q    Okay. Do you recall being advised sometime  
20   in the summer of 1993 that an Assistant U.S. Attorney  
21   in Little Rock that had been assigned to the Madison  
22   matter or the Hale matter, it's unclear, traveled to

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1   Washington to meet with unknown officials to attempt  
2   to have the investigation quashed?

3       A    No.

4       Q    Do you ever recall meeting with anyone from  
5   Little Rock, an attorney from Little Rock?

6       A    I do not recall meeting with -- as I  
7   mentioned earlier, it wouldn't be normal. I think I  
8   would recall that.

9       Q    Do you recall Mr. Potts having any meetings  
10   with attorneys from Little Rock?

11      A    In '93?

12      Q    Uh-huh. Yes, sir.

13      A    It doesn't ring a bell at all.

14      Q    Okay.

15      A    And the purpose of the meeting was to --

16      Q    Have some investigation quashed.

17           MR. COLE: If such a meeting occurred.

18           MS. FISHER: If such a meeting occurred.

19           MR. COLE: Thank you.

20           MS. FISHER: No, I'm just asking. It's a  
21   fair question.

22           MR. COLE: It's a perfectly fair question.

1 THE WITNESS: None of this rings a bell.

2 If you can provide more information. Quashed as  
3 to --

4 BY MS. FISHER:

5 Q I can let you see the memorandum that I'm  
6 referring to where this information is divulged. And  
7 it's FBI 1542 which is a memo from Mr. Irons to the  
8 SAC in Little Rock, dated August 20th, 1993.

9 A That would be an internal document.

10 Q Yes, I'm aware of that.

11 A And I'm looking for a copy count and there  
12 is no indication.

13 Q It's in the first paragraph towards the  
14 end.

15 (Witness reviewed the document.)

16 Do you recall learning about this at any  
17 time?

18 A No. No recall whatsoever.

19 Q Okay. Do you recall at this time any  
20 involvement of the director of the FBI in either of  
21 the investigation of Capital Management and Mr. Hale  
22 or the investigation of Madison Guaranty?

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1 A Other than memos that would be prepared  
2 would be routed upward and each official would then  
3 decide what would continue on to the next higher  
4 level; many communications were prepared and  
5 briefings were given.

6 Q Did you attend any of the briefings?

7 A I'm sure.

8 Q Do you recall any of the briefings?

9 A We would brief the director. When I went  
10 in to brief the director, it would generally not be  
11 on one issue, but it would be maybe on two or three,  
12 unless it was just one small bit of information.  
13 That could happen almost daily.

14 Q Do you recall discussing the Madison  
15 investigation with the director prior to the receipt  
16 of the additional referrals in --

17 A These nine?

18 Q Uh-huh.

19 A Oh, I'm sure. But I can't tell you when or  
20 what we discussed or what. If a matter is in the  
21 newspaper or if a matter is at Potts's and my level,  
22 this is something generally the director is going to



1 at least be aware that there's a case going or that  
2 we're investigating it. Would he be provided the  
3 details that Potts and I were provided? No.

4 MS. SIMONTON: Can we be specific as to  
5 which director, since Director Freeh didn't come into  
6 office until September of '93. Director Sessions  
7 resigned in the summer of 1993. There was a period  
8 where there was an acting director.

9 So when you talk about the director, which  
10 director are you talking about in briefing? Or you  
11 can ask him to clarify which director or acting  
12 director he might have been, you know, talking  
13 about. That might just --

14 MS. FISHER: Okay. Thanks.

15 BY MS. FISHER:

16 Q Who was the acting director in the summer  
17 of 1993?

18 A After Director Sessions left and before  
19 Director Freeh arrived was Floyd Clarke, C-l-a-r-k-e.

20 Q Did you have any discussions about the  
21 Madison investigation with Director Clarke?

22 A I don't recall, but it would be the same

1 from Director Sessions to acting Director Clarke to  
2 Director Freeh, we would pass information up that was  
3 necessary to go forward. I can't tell you the dates,  
4 but documents will have a copy count on it and it  
5 will give you a clue as to what was sent up.

6 Q Do you recall receiving any direction on  
7 the Madison investigation or the investigation  
8 involving Capital Management from Director Clarke?

9 A No. Direction, what sort of direction, as  
10 to do this or --

11 Q Any sort of direction or instruction.

12 A Unless something arose as a result of a  
13 briefing we provided to Mr. Clarke. Director Freeh  
14 came on board in December --

15 MS. FISHER: I think she just said  
16 September.

17 MS. SIMONTON: I mean I'm not giving  
18 testimony here. It's your recollection and I don't  
19 want to -- I mean I think the record would reflect  
20 that he was sworn in on September the 1st of 1993,  
21 and that Director Sessions left during that summer  
22 before.

1 THE WITNESS: That probably was clear as to  
2 the arrival date.

3 BY MS. FISHER:

4 Q I want to show you a teletype which is  
5 dated September 17th, 1993; 7719 is the Bates  
6 number. And it is to the director with passage  
7 through Tom Kubic, and ask you if you recall seeing  
8 this teletype.

9 (Witness reviewed the document.)

10 MS. FISHER: Actually, maybe we are --

11 MS. SIMONTON: I was --

12 (Discussion off the record.)

13 THE WITNESS: Your question was am I  
14 familiar with this document, I'm familiar with  
15 information in this document. I do not recall  
16 reading this document.

17 BY MS. FISHER:

18 Q Do you recall that Mr. Kubic briefed you on  
19 the substance of the matter in this document?

20 A I'm not sure who briefed me on the  
21 substance, and I'm not sure it came at one time, but  
22 information in this document is familiar to me. The

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1 briefing could have taken, could have been conducted  
2 by Wade, could have been conducted by Jane Erickson  
3 or Tom Kubic or all together.

4 Q Looking at the second page of this  
5 document, the first full paragraph, it discusses an  
6 undercover operation set up to investigate Small  
7 Business Investment Corporation's involvement with  
8 money laundering.

9 Is this the undercover operation that you  
10 were referring to earlier --

11 A Yes.

12 Q -- where Mr. Hale's name arose?

13 A Yes.

14 Q About the third sentence down, it says "one  
15 of the subjects in this matter advised undercover  
16 agents that he was friends with individuals who were  
17 close with President Clinton."

18 A Okay.

19 Q "Subject did not allege wrongdoing by  
20 President Clinton. Subject also knew that Judge  
21 David Hale, a municipal county judge in Little Rock,  
22 Arkansas, was operating an SBIC in the state of

1 Arkansas and that the SBIC could be used to funnel  
2 cash."

3 Is it your understanding that one of the  
4 subjects in this matter that's referred to in the  
5 second sentence, who said that he was friends with  
6 individuals who were close with Clinton, is someone  
7 distinct from David Hale? Is that your  
8 interpretation?

9 A Yes, that Hale is not who they're referring  
10 to, the subject or, in the previous sentence, one of  
11 the subjects in this matter.

12 Q Right. At least at this point Hale was not  
13 a subject of the operation; is that correct?

14 A You are saying was not one of these  
15 individuals?

16 Q Yes. Going down to the end, it says  
17 "during this same time period, Little Rock received  
18 a criminal referral form from the SBA alleging that  
19 Capital Management, Inc., whose president and  
20 director is Hale, and the Central Arkansas Community  
21 Development Corporation were engaging in the transfer  
22 of assets between associates and the sale of

1 misclassified assets which were later misrepresented  
2 to the SBA."

3 Is it your understanding that the SBA  
4 criminal referral was separate and distinct from the  
5 fact that Mr. Hale's name arose in the undercover  
6 investigation?

7 A Yes.

8 Q On the next page, page 4, towards the  
9 bottom it says "Hale is represented by Randy Coleman,  
10 a local Little Rock attorney who has attempted to  
11 persuade the U.S. District Attorney in the matter  
12 Fletcher Jackson, and the new U.S. Attorney for the  
13 Eastern District of Arkansas, Paula Casey, that Hale  
14 should only be charged with a misdemeanor in this  
15 matter."

16 Do you recall receiving that information?

17 A I was aware that when we were talking about  
18 Hale that, first, he did not want to take any plea  
19 and then wanted a misdemeanor plea.

20 Q Who do you recall discussing that issue  
21 with?

22 A Kubic probably or the people mentioned,

1 Wade, or Erickson.

2 Q Do you recall whether any FBI employees had  
3 met with Mr. Coleman or Mr. Hale prior to that time?

4 A Met with Hale to discuss -- that's not the  
5 role of the FBI. So I don't know of any, if they did  
6 or not, but normally we would not do something like  
7 that. That would be U.S. Attorney's role.

8 Q So you have no knowledge that Mr. Irons,  
9 for example, met with Mr. Hale or Mr. Coleman?

10 A To discuss proffer, no. Possibly happened.

11 Q Do you recall what your knowledge was about  
12 the substance of Mr. Hale's proffer at this time?

13 A No.

14 MR. SGRO: I mean just for clarity  
15 purposes, when you say the substance of his proffer,  
16 there was no proffer at this point.

17 BY MS. FISHER:

18 Q Is it your understanding that there was no  
19 proffer at this point?

20 A I don't recall whether there was or  
21 wasn't. I don't recall any details about what was  
22 finalized or about to be finalized or working

1 toward. I just know that the first ploy was we don't  
2 want to plea to any count; and then second, we want  
3 to plea to a misdemeanor. And where it went from  
4 there, I'm not aware. I don't recall. I just do not  
5 at this point recall what the next step was.

6 Q Do you have any knowledge of what he was  
7 offering in return for his plea?

8 A Best recollection, he was going to provide  
9 us information and testimony if we would accept his  
10 proffer.

11 Q Information and testimony relating to what?

12 A Best recall was -- and I'm not sure if I'm  
13 recalling this from reading about it in the paper, of  
14 The New York Times article, or if I was briefed on  
15 it, so somehow this sticks with me, is that he was  
16 going to provide information regarding involvement of  
17 McDougal, President Clinton, Whitewater.

18 Q Do you recall having contact with  
19 Mr. Keeney or Mr. McDowell during this time period  
20 relating to this matter?

21 A Not specifically, but we talked often so it  
22 could be.



1 Q Do you recall anything --

2 A More Jack Keeney, something sticks in my  
3 head about that. I talked to Jack Keeney.

4 Q Do you recall anything about the substance  
5 of your conversations or contacts with Mr. Keeney  
6 relating either to the Madison investigation or the  
7 investigation surrounding David Hale and Capital  
8 Management?

9 A You want to jog my memory? Did I talk to  
10 Keeney, it seems like somewhere along this line in  
11 the months I did. He would have been more the point  
12 of contact at this point with me in the department,  
13 but I don't recall anything specific about Hale, but  
14 I believe that's what it dealt with.

15 Q Anything else about the substance of  
16 conversations with Mr. Keeney that you can recall?

17 A No, not without reading something.

18 Q Do you recall Mr. Keeney giving you any  
19 direction relating to the Madison investigation or  
20 the investigation surrounding Capital Management?

21 A That would be highly unlikely. Jack would  
22 more or less call for information versus just saying

1 overall policy, rather than being decisionmaker in a  
2 particular issue. There would come times we would  
3 brief him, but no, I don't recall specific  
4 instructions from Jack Keeney.

5 Q Do you remember anything specific about  
6 conversations you may have been having with Mr. Potts  
7 or Director Freeh regarding either the Madison  
8 investigation or the Hale investigation at this time  
9 period, being on or about September 17th?

10 A There would be very little that I was  
11 dealing with this matter that Potts and I wouldn't  
12 discuss.

13 Q Do you recall anything about the substance  
14 of your discussions?

15 A Any particular date or discussion, no.

16 Q How about the general gist of what  
17 discussions were going on?

18 A I'm sure I would pass that on to Larry  
19 daily --

20 Q Do you recall what --

21 A -- and he would also be furnished copies of  
22 most communications that I received.

1 Q Do you recall anything about what kind of  
2 conversations were going on, what discussions were  
3 taking place at the bureau relating to the Madison  
4 investigation at or around September 17th, September  
5 20th, middle of September time frame?

6 A With referrals?

7 Q Generally, prior to receipt of the  
8 referrals.

9 A Regarding?

10 Q The Madison or Hale investigations.

11 A Other than probably we had ongoing  
12 conversations regarding the matter, but were enough  
13 resources being put on it. But I don't recall of any  
14 real problem at that point.

15 Q Okay.

16 A But the time lines are escaping me here and  
17 you may say something to jog my memory and I'll say  
18 yes, I recall that happening.

19 Q Turning to the next page of the teletype --

20 A Page 5.

21 Q Yes, page 5. I believe halfway down the  
22 page, it discusses the 1989 trial of Mr. McDougal,

1 and the fact that that indicated a strong connection  
2 between McDougal and Hale and his SBIC. Do you  
3 recall learning this information?

4 (Witness reviewed the document.)

5 A No, I don't recall at this time.

6 Q Do you recall learning that this was the --  
7 do you recall learning that this was what caused the  
8 FBI in Little Rock to open the Madison investigation  
9 in the summer of '93?

10 A I do not.

11 Q Turning to page 6. It discusses the  
12 transfer of a \$300,000 loan to Susan McDougal doing  
13 business as Master Marketing. Do you recall learning  
14 this information?

15 A Where is this, on page 6?

16 Q Yes, about halfway down the first  
17 paragraph?

18 A I recall something about a \$300,000 loan to  
19 Susan McDougal, but I couldn't, I can read and get,  
20 have recall, but at this moment, without reading  
21 anything, I recall a \$300,000 loan and Susan McDougal  
22 but much more than that, no.

1 Q Okay. Do you recall learning at this time  
2 that issues surrounding Whitewater were resurfacing?  
3 And you can refer to page 7 and what it says towards  
4 the bottom of the page is "you know Gerth added that  
5 Mr. Hale had information that a \$300,000 loan to  
6 Master Marketing was then funneled back, in the form  
7 of cashier's check, to Whitewater development to help  
8 pay on several obligations."

9 Whitewater Development was a real estate  
10 joint venture that President Clinton and his wife,  
11 Hillary Rodham Clinton, were involved with in 1978.

12 A As I mentioned earlier, how I recall this  
13 information, I'm not sure of the source, but I do  
14 recall that the SBA was tying Hale into Whitewater,  
15 and that there was a connection.

16 Q Okay. On page 8, towards the bottom of the  
17 first paragraph, and it's not the full paragraph, but  
18 from records obtained through the Resolution Trust  
19 Corporation in a previous referral it appears the  
20 loan proceeds were divided into two checks.

21 Do you recall learning at or around this  
22 time that matters that were being investigated

1 related back to the first referral?

2 A I would have to -- I don't recall that, but  
3 I don't know why I wouldn't tie it in.

4 Q Okay.

5 A You know, in addition to receiving oral  
6 briefings, time lines would be given to me. You  
7 would read it and look at it and sign off on it. So  
8 a lot of documents would have crossed my desk and I  
9 would have looked at it. But I would have tried to  
10 maintain a general knowledge rather than a specific  
11 knowledge of a case.

12 Q What do you recall learning about the  
13 allegations, other than what you read in the  
14 newspaper, what do you recall learning about the  
15 allegations that were being proffered by Mr. Hale?

16 A That he could cooperate and provide  
17 information, and in return, he wanted a deal.

18 Q Do you recall learning other than what you  
19 read in the newspaper anything more substantive  
20 about --

21 A I'm sure --

22 Q -- that information he was willing to

1 provide?

2 A I would have learned that either from  
3 briefings or discussions or newspapers, but it might  
4 have all been one. I would have read it, I would  
5 have asked a question, I would have been given a  
6 response.

7 Q Do you recall the response you may have  
8 been given?

9 A From?

10 Q From anyone within the bureau at that  
11 time.

12 A Specifically, no. Just that he -- that he  
13 could give us information and I don't recall anyone  
14 saying -- and this is an example -- here's the type  
15 of document he can give us or here is the type of  
16 information he can give us.

17 Q Do you recall learning anything else about  
18 the plea negotiations with Mr. Hale?

19 A Without asking me a pointed question, no.

20 Q Okay. Do you recall an issue arising as to  
21 the recusal of the U.S. Attorney in the Eastern  
22 District of Arkansas?

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1 A I remember that as an issue. That would  
2 have been Paula Casey?

3 Q Uh-huh. Yes.

4 A But I don't remember having an opinion on  
5 it or weighing in on it because, if I recall, she had  
6 actually given the case to some other official in her  
7 office to supervise. And while she was still  
8 involved, I think it was being handled by someone  
9 else. That's my recall.

10 Q Do you recall --

11 A I don't know if she was still the  
12 decisionmaker at that point.

13 Q Do you recall whether Mr. Potts had an  
14 opinion on whether Ms. Casey should recuse from the  
15 investigation, either the Hale investigation or the  
16 Madison investigation?

17 A I do not.

18 Q Do you recall whether the director had a  
19 view that Ms. Casey should or should not recuse  
20 herself?

21 A I do not.

22 Q I want to show you an E-mail dated



1 September 30th, 1993. FBI 2422 to you from  
2 Mr. Dortch, Timothy Dortch.

3 (Witness reviewed the document.)

4 A Okay.

5 Q Who is Mr. Dortch?

6 A Tim Dortch was the number 2 person in the  
7 white collar crime section. He would have been  
8 then. The position is no longer there, but it would  
9 have been the assistant section chief. Mr. Dortch is  
10 presently the ASAC, assistant special agent in charge  
11 of the New York office, white collar crime program.

12 Q Mr. Verinder, does this E-mail refresh your  
13 recollection about a meeting on September 29th, 1993  
14 between Mr. Wade, Ms. Erickson, Mr. McDowell and  
15 Mr. Gangloff relating to the Hale case?

16 A No, nothing in there tells me that date  
17 jumps out at me. It's an E-mail to me so I must have  
18 read it.

19 Q Do you recall learning of this meeting or  
20 the substance of what was discussed at this meeting?

21 A I probably got -- not to try and diminish  
22 one from another, but I probably got 30 of these a

1 day, E-mails on different topics that would come to  
2 me. And I would read them and unless there was a  
3 problem, and reading that quickly, I don't see a  
4 problem.

5 And I would have just -- I can't tell if I  
6 would have sent it onto Potts or not but I don't see  
7 anything here that would indicate that I would have  
8 sent it on to Potts, and I would have probably  
9 deleted it.

10 Q Do you recall learning or having any  
11 knowledge about what's in the, I guess, third  
12 sentence or fourth sentence, "McDowell is under a lot  
13 of pressure from AAG Keeney to keep abreast"?

14 A I'm sure it would be -- people would tell  
15 you the same thing that work for me is Verinder wants  
16 to know what's going on. Send him regular E-mails,  
17 give him weekly briefings or whatever briefings. I  
18 didn't want to be caught short if the Department  
19 called and said is there some major development or  
20 the field office called, asking for help, that I was  
21 unaware of their needs.

22 Q Do you recall the extent of Mr. Keeney's

1 involvement at this point in time?

2 A I don't recall a lot of involvement from  
3 Jack. Not it wouldn't be the intensity of the Ira  
4 Raphaelson involvement or the fraud section  
5 involvement. Jack was a very senior person in my  
6 opinion in the department, a friend, but someone that  
7 wouldn't have hands-on making calls on issues. If a  
8 question came up or something that he had to deal  
9 with, he would call me.

10 Q Do you recall any --

11 A I didn't have regular -- it wasn't like the  
12 regular dealings I had elsewhere. I would deal with  
13 Jack but not daily, probably not even weekly.

14 Q Do you recall having any discussions with  
15 Mr. Keeney regarding the Hale investigation on or  
16 around the end of September 1993?

17 A I recall dealing with Jack on an issue  
18 regarding Hale but I don't remember when and I don't  
19 even remember exactly what. But looking at this time  
20 line, it might be something about a proffer.

21 Q Okay. I'd like to show you a document, FBI  
22 1322. It has a date of 10/5/93.

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1 (Witness reviewed the document.)

2 A Okay.

3 Q I just want to ask you if this refreshes  
4 your recollection that there was a briefing of the  
5 director on this case on or about October 5th, 1993?

6 A When a director arrives, he asks for  
7 briefings of every division at FBI headquarters and  
8 when we did the criminal division, which was one of  
9 his first briefings, the way Larry and I set it up  
10 was to have each section, all right, financial crimes  
11 section would have done a briefing, and then the four  
12 unit chiefs from that section would have come in, and  
13 then the undercover operations group and we would  
14 have had each group come in and provide a briefing to  
15 the director.

16 Because this is different than the  
17 briefings that I mentioned to you where I or Larry  
18 would brief the director on certain topics that might  
19 come up. This was more or less an overall briefing,  
20 if I recall this one -- in looking at the date of  
21 October -- it fits -- where he would have been given  
22 the big briefing which we did in the conference room

1 for him. We covered a lot of cases. Each unit was  
2 asked to provide a briefing of the top three cases.

3 Q Does this refresh, this note -- or it  
4 doesn't quite look like an E-mail -- refresh your  
5 recollection that the director indicated he wanted  
6 Paula Casey to recuse herself from the case in  
7 October 5th of 1993?

8 A I've never heard, from my recollection, a  
9 director voice that opinion.

10 Q Okay. Do you recall anything about the  
11 reasons relating to Ms. Casey's recusal?

12 A The reasons?

13 Q Yes.

14 A I can't -- I don't even know the date that  
15 she did recuse herself. I recall that she did recuse  
16 herself. I do not know what caused her to do that in  
17 the end. I know there was discussion about her  
18 recusing herself.

19 Q Do you recall that headquarters received  
20 the nine additional referrals from the RTC sometime  
21 in October of 1993?

22 A I recall them, the fact that they did --

1 did you say headquarters or did you say --

2 Q Headquarters.

3 A That we received them at headquarters? I  
4 know they were received by Little Rock and probably  
5 copies were requested by headquarters, so we would  
6 have had them.

7 Q Do you recall reading the nine additional  
8 referrals yourself?

9 A I do not recall at all looking at them. I  
10 recall reading a briefing, a summary of them in some  
11 sort of communication that I read.

12 Q Do you know who prepared that summary?

13 A I do not. But I would guess at that point  
14 in time, if it was in the government fraud unit, it  
15 would have been done by Jane.

16 Q Do you recall discussing the nine  
17 additional referrals with Mr. Potts when they  
18 arrived?

19 A If it's a document that I recall, that  
20 would have been forwarded to him. It would probably  
21 have been a communication from me or from me to him  
22 even though I didn't prepare it it would have been

1 prepared there it and signed off and a copy would  
2 have been given him.

3 Q Do you recall what action was taken at the  
4 FBI after receiving the nine additional referrals  
5 relating to Madison Guaranty?

6 A At FBI headquarters?

7 Q Well, I'll ask you both.

8 A At Little Rock? The case was opened and  
9 worked and it was part of the complete  
10 investigation. Generally, because of the sensitivity  
11 of this case at this point, copies would have been  
12 made available to headquarters just so we had them if  
13 any questions arose.

14 Q Do you recall any instruction from any  
15 officials at the Department of Justice on how the FBI  
16 should handle the nine additional criminal referrals  
17 relating to Madison?

18 A No.

19 Q Do you recall whether the director was in  
20 contact with the Attorney General relating to the  
21 nine additional Madison referrals?

22 A I don't have a clue.

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1 Q Do you recall whether the director -- or  
2 did you ever learn that the director was in contact  
3 with any member of the White House staff with regard  
4 to the nine additional Madison referrals?

5 A I have no knowledge of that.

6 Q How about with regard to the Madison  
7 investigation as a whole?

8 A I don't recall the director ever telling me  
9 I've just called the Attorney General, I've just  
10 called the White House, ever.

11 Q So that would be your answer with regard to  
12 the Hale investigation as well?

13 A The briefings generally were me to the  
14 director, not the director to me, generally. And  
15 now, I don't recall ever having the director telling  
16 me that I just spoke to the White House or just spoke  
17 to the Attorney General. He might have said I talked  
18 to the Attorney General but he wouldn't say I talked  
19 to the Attorney General about this.

20 I do not recall that whatsoever. Is that  
21 clear enough? I was shaking my head and I don't know  
22 if I gave you the right answer. I apologize.



1 Q Rather than him telling you about such  
2 contact, just to be clear, did you ever learn of any  
3 such contact?

4 A No.

5 Q Did you, at any time ever, learn of any  
6 such contact relating to either the Madison  
7 investigation or the Hale investigation between any  
8 member of the White House and any member of the FBI?

9 A There was a time -- I'm not sure if I'm  
10 getting into the Fiske era -- on subpoenas being  
11 served.

12 Q Other than that, other than the issue  
13 regarding subpoenas or any interviews which may have  
14 been conducted -- and I don't want to ask you about  
15 those. I do not. Other than that?

16 A I don't recall -- give me a time, up to  
17 like January of --

18 Q How about, up till the end of November  
19 1993?

20 A I don't recall any contact with the White  
21 House.

22 Q Okay.

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1 (Pause.)

2 I want to show you a document that's marked  
3 FBI 1332, dated October 14th, 1993, from Mr. Potts to  
4 Mr. Keeney. And I ask you if you recall seeing this  
5 document.

6 (Witness reviewed the document.)

7 A I recall seeing this document.

8 Q Did you prepare this document for  
9 Mr. Potts?

10 A I didn't. It appears to be Jane Erickson  
11 because of the initials on the bottom. Rarely would  
12 I prepare a document like this. This would be done  
13 and then routed up through -- it wouldn't even --  
14 Kubie probably wouldn't. It would generally be the  
15 supervisor of the particular case.

16 I don't recall the instructions, but  
17 probably on instructions from me or Mr. Potts to the  
18 section and unit to prepare it, because it seems like  
19 Jack asked for the request, and he would furnish that  
20 request to either Larry or myself, Larry Potts or  
21 myself.

22 Q Do you recall whether, on or around October

1 4th, 1993, there had been any meetings between FBI  
2 officials and Mr. Hale or his attorneys regarding  
3 Mr. Hale's allegations?

4 A I don't recall.

5 Q I'm going to show you a document, FBI 763,  
6 dated 11/22. And turning to the second page of that  
7 document, 764, is that your handwriting --

8 A Yes.

9 Q -- on that routing slip?

10 Could you read that for me?

11 A "Please evaluate and advise. You may want  
12 to send an SSA to Little Rock to get firsthand  
13 details," my initials, "11/26." Copies in the  
14 writing of, appears to be Tom Kubic, and he was  
15 sending that to Rick Wade.

16 Q Can you read the writing on the first page  
17 of this document?

18 A "What steps have been taken to prioritize  
19 their," something, "work level" -- "current work  
20 level? What can be placed" -- number 2 looks like  
21 "what investigations can be placed in pending and  
22 active of prioritize this investigation."

1 MS. SIMONTON: Can I consult with him for a  
2 minute?

3 MS. FISHER: Absolutely.

4 (Witness conferred with counsel.)

5 THE WITNESS: Yes, that makes sense. "Can  
6 be placed in pending inactive without jeopardizing  
7 this investigation."

8 BY MS. FISHER:

9 Q Do you recall what this relates to? Can  
10 you explain to me what the substance of this --

11 A Yes. Little Rock had few resources and  
12 this is where I mentioned to you in dealings with the  
13 then-SAC, which I believe was Satkowski, constantly  
14 pushing him to prioritize his investigations to  
15 accomplish what was the most important. And that's  
16 what I would have asked him to do, was what can you  
17 tell or what can be placed -- as I mentioned, pending  
18 inactive is not like closing a file, it's putting it  
19 on hold and do something else.

20 Q So this basically just dealt with resource  
21 allocation?

22 A Yes.

1 Q Can you tell me, on this document FBI 1973,  
2 is that your handwriting?

3 A No.

4 Q Do you know whose handwriting that is?

5 A I do not recognize the handwriting.

6 Q Can you read that handwriting?

7 A Looks like it's dated December 3, '93.

8 Allen Carver, who was over at the fraud section of  
9 the department. Somebody from DOJ, I see what could  
10 be Wade, on the left column.

11 Q Wade. That would refer to Rick Wade?

12 A Rick. It says "somebody from DOJ told  
13 WH" -- which I assume is White House people -- "that  
14 need to cooperate with FBI and just talk to the FBI.  
15 White House said would take it under advisement."

16 Q Do you recall or do you have any knowledge  
17 of what this could be referring to?

18 A No, I don't recall ever seeing it.

19 Q Do you have any knowledge of what it may be  
20 referring to, White House cooperation on what issue?

21 A The only thing I can think of, and I don't  
22 know if I'm getting ahead of my story here on time

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1 lines, is the --

2 Q Well, this is December of '93.

3 A Right, I know. The SBA matter?

4 Q Well, okay. I was going to ask you about  
5 that next, so now would be a great time. What do you  
6 know about the transfer of SBA documents to the White  
7 House?

8 A I recall being told that SBA prepared a  
9 report, I believe, for the Hill and a copy of it was  
10 also given to the White House upon their request, and  
11 that concerned the FBI and was brought to my  
12 attention.

13 Q How did the FBI learn of this transfer of  
14 documents to the White House?

15 A I don't know. I believe I was told about  
16 it by someone in the white collar crime section, and  
17 I believe they had been in contact with SBA.

18 Q Would that be Mr. Kubic?

19 A Well, I would start with Tom since he was  
20 the boss of that section.

21 Q What did Mr. Kubic tell you about --

22 A Someone from his section told me that a

1 report that was prepared for the Hill, I believe,  
2 prepared for someone, was also furnished to the White  
3 House.

4 Q Can you explain to me why that concerned  
5 the FBI?

6 A A report of that nature, since it dealt  
7 with an ongoing investigation -- I don't believe I've  
8 ever even seen the report -- going to the White House  
9 would not be proper.

10 Q It would be improper because it contained  
11 confidential information relating to an ongoing  
12 investigation?

13 A Correct.

14 Q Did you ever learn how it was that the  
15 White House received these documents?

16 A A request was made from a White House  
17 official to SBA.

18 Q Do you recall who that White House official  
19 was?

20 A I do not.

21 Q What action did the FBI take at that time?

22 A I recall concern and maybe expressed it to

1 the Department of Justice. That part I'm not sure.  
2 We had concern. It was brought to me, we had concern  
3 and we did something. And the vehicle we would use  
4 would be the Department of Justice in something like  
5 that.

6 Q Did the FBI conduct an investigation into  
7 the transfer of the documents?

8 A I don't recall what happened, but I believe  
9 we were -- we might have done -- this is just best  
10 recollection -- we might have done interviews at the  
11 White House.

12 Q Do you recall what, if any, result came  
13 from those interviews?

14 A Best recollection is the report was given  
15 back.

16 Q The report was given back to whom?

17 A Maybe SBA.

18 Q What else?

19 A I don't recall much else.

20 Q Other than the White House interviews, was  
21 any other action taken by the FBI relating to the  
22 transfer of these SBA documents?



- 1 A Not that I recall, other than unhappiness.  
 2 Q Do you --  
 3 A Official action? I don't recall any  
 4 official action.  
 5 Q Did you ever learn why the White House  
 6 wanted these documents?  
 7 A I do not recall.  
 8 Q Do you recall who you discussed, who, if  
 9 anyone else, you discussed the matter with?  
 10 A Beside Potts?  
 11 Q Uh-huh.  
 12 A Who I would have discussed it with at the  
 13 Department of Justice, I do not remember.  
 14 Q Do you recall anyone offering any opinions  
 15 on this matter?  
 16 A I do not.  
 17 Q I'll show you a note that's dated 1/4/4,  
 18 bottom is FBI 2266. Do you know whose handwriting  
 19 this is?  
 20 A It favors Tom Kubic's but I don't -- I  
 21 can't tell you that as a fact.  
 22 Q Right under the big black redaction, can

- 1 you read for me what that next paraphrase or phrase  
 2 says?  
 3 A No. Looks like, I see initials WWD and a  
 4 diary concerning the, I believe those are -- can you  
 5 read the next initials to me.  
 6 Q It looks like WWD to me, but --  
 7 A Oh, okay. I guess the next one would be  
 8 complaint. I don't know. Could be c-o-m-p. I don't  
 9 recall ever seeing this.  
 10 Q Could this refer to the Whitewater  
 11 Development Corporation?  
 12 A I assume WWD would refer to Whitewater  
 13 Development, but I don't know that as a fact.  
 14 Q Do you recall ever learning of a diary  
 15 concerning the Whitewater Development Corporation?  
 16 A No. Whose diary? I do not recall.  
 17 Q I'm trying to find out.  
 18 A I don't recall ever hearing of a diary.  
 19 Q This doesn't refresh your recollection?  
 20 A No, I don't recall ever seeing this.  
 21 Can I ask for a time out?  
 22 MS. FISHER: Absolutely.

1 I have no further questions. Thank you for  
2 coming.

3 EXAMINATION

4 BY MR. COLE:

5 Q I'll try to be brief, Mr. Verinder. As I  
6 indicated before, my name is Lance Cole. I'm one of  
7 the Minority counsel for the Committee and I do want  
8 to recover a few of the points Mr. Fisher previously  
9 covered, but she's been thorough, so I believe it  
10 won't take a great deal of time.

11 Going back to the matter of this SBA  
12 information that was provided to the White House by  
13 the SBA, I believe that you testified about a concern  
14 on the part of the FBI concerning the transmittal of  
15 that information from the SBA to the White House; is  
16 that correct?

17 A That's correct.

18 Q Do you have any knowledge today as to what  
19 the information was that the SBA gave to the White  
20 House?

21 A No. Best recollection is it was a summary,  
22 and then that's just a guess. I do not know the

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1 details. I don't recall ever seeing the report, but  
2 it would have been a summary of the investigation  
3 possibly.

4 Q Do you know whether the information that  
5 was given to the White House was the same information  
6 that had been given to Capitol Hill by the -- I  
7 believe you testified Capitol Hill, by the SBA?

8 A I believe it was the same report.

9 Q And can you explain why giving information  
10 to the White House that had been given to Capitol  
11 Hill would create a problem in this instance, if it  
12 was the same information that was provided?

13 A Because of the nature of the investigation  
14 if, in fact, it contained information regarding  
15 Whitewater or the President or Mrs. Clinton, it would  
16 be a concern to me.

17 Q And do you know whether it did or not?

18 A I do not. I don't recall the report. I  
19 don't recall ever being given a copy of the report to  
20 read; maybe I have, but at this moment it escapes me.

21 Q Do you know whether at the time these  
22 concerns that were expressed by the FBI were they

1 knew what information had been given to the White  
2 House?

3 A I believe they did know, either had a  
4 briefing of the contents of the report or possibly  
5 was given a copy of it. I don't recall how they  
6 found out it was sent to the White House. My best  
7 recollection is they came to my office concerned that  
8 it had happened, and they were aware of it. And I  
9 don't know if it was a matter -- if the copy had been  
10 given back or what, but I don't recall what was, how  
11 they knew even that much.

12 Q And do you know anything further about that  
13 matter beyond what you've testified to today? When I  
14 say "that matter," I mean that transmittal of  
15 information from the SBA to the White House?

16 A Other than there was a request for  
17 interviews, and I do not know if they were completed  
18 or not.

19 Q Thank you. Going back to the first matters  
20 that you testified about this morning, and that would  
21 be 1992 and information that came to your attention  
22 concerning Madison Guaranty Savings & Loan or a

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1 financial institution in Arkansas, I believe your  
2 testimony was that your best recollection is that  
3 perhaps you had an inquiry from the Department of  
4 Justice, but you can't recall anything more specific  
5 than that.

6 Is that a fair characterization of your  
7 testimony?

8 A That's fair. It would have come one of two  
9 ways, as I mentioned, and my best recollection is  
10 that it was from the Department because what rings a  
11 bell is the fact that it was a question asked to me.  
12 And I thought it would not be that way from the white  
13 collar crime section, it would have come as an  
14 answer. So with that said, I think the motion was to  
15 the section, what's going on.

16 Q Solely for the purpose of trying to refresh  
17 your recollection and obviously not trying in any way  
18 to influence your testimony, I'll tell that you  
19 Mr. Raphaelson has provided testimony to this  
20 committee that he made two inquiries to the Federal  
21 Bureau of Investigation -- and Mr. Sgro was present  
22 for his testimony and can correct me if I'm in any



1 way mischaracterizing what his testimony was -- but I  
2 tell you that, as I said, solely in an attempt to try  
3 to refresh your recollection.

4 Does that help you in recalling whether or  
5 not you or others at the bureau were contacted by  
6 Mr. Raphaelson?

7 A If Ira Raphaelson would have contacted the  
8 bureau, it would have been myself or Larry Potts.  
9 And we spoke to him regularly and that probably would  
10 be the person that called me more than the fraud  
11 section because it dealt with a bank. And while it  
12 could have come from the fraud section, what you are  
13 telling me would not be unusual for Ira to call me  
14 and ask me a question. And that's who I would  
15 believe it came from in the Department, from Ira.

16 Q But you have no independent recollection at  
17 this time of that contact?

18 A For the record, Ira Raphaelson is our  
19 outside counsel and I travel with Ira often. We have  
20 never discussed any details or recollection of his  
21 testimony, and I know he testified, and I know before  
22 you and I know he was in here because we scheduled in

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1 our appointments to travel.

2 We chat often and, you know, I just  
3 remember this phone call. And what you are saying,  
4 it was probably as a result of a phone call from Ira  
5 Raphaelson, based on what you just said. It would  
6 not surprise me if that's how it happened.

7 Q Focusing on that phone call, what is your  
8 best recollection as to whether you were told at that  
9 time whether this matter involved then-presidential  
10 candidate Bill Clinton?

11 A I recall the conversation in the form of a  
12 question. What do we know about a referral from RTC,  
13 and I don't know if they said Little Rock or not, but  
14 I'm believing they did.

15 Lance, I think the question ended there,  
16 because I didn't know. I don't have a clue.

17 Q I asked you the question in that way  
18 because I was trying to determine whether an inquiry  
19 involving a presidential candidate would be something  
20 that you would recall. Whether you can or not is my  
21 question, one way or another.

22 A Something triggered my recall of that and



1 recalling a case in Little Rock would not be enough.

2 Q That's my point. I'm trying to determine  
3 what it was about that phone call that makes it stand  
4 out in your memory.

5 A And it's very possible that the question  
6 was raised and it concerns the William Clinton, Bill  
7 Clinton and his wife.

8 Lance, that's probably more possible than  
9 not possible. I don't recall it, but it was in the  
10 form of a question to me, and not in the form of a  
11 statement to me, and because the next step was we  
12 started to look into what's going on.

13 Q The FBI has a reputation, richly deserved  
14 in my experience, for careful documentation, internal  
15 documentation of matters. Is this the kind of  
16 telephone call that you would have prepared an  
17 internal record for?

18 A I don't believe so. I don't recall  
19 preparing a document on that phone call.

20 Q And I'll tell that you I'm not aware of any  
21 such document, I'm not trying to lay a document trap  
22 for you. But I also know that there are some

1 documents that the bureau has not yet produced  
2 because they're still under review by the independent  
3 counsel.

4 A I don't believe you'll ever find one  
5 because I don't remember doing it. Because it was  
6 more of a question than a direction or an order. I  
7 was asking do you have it and I would have passed  
8 that on down the line. Eventually someone might have  
9 prepared a document, whoever was starting to prepare  
10 a response back to me, they would have referenced my  
11 phone call or whoever called. Kubic's call to the  
12 person is to -- called and they contacted the field  
13 office or however we got the information back up.  
14 Because something must have come back to me that I  
15 then in turn, or Potts in turn, called Ira which  
16 resulted in a meeting at the Department of Justice  
17 where I was asked what happened on the 8th or 7th.

18 Q Continuing to focus on the initial contact,  
19 if it came from Mr. Raphaelson in the matter, was  
20 that something that you would have reported to  
21 Mr. Potts, if that inquiry came in to you?

22 A Yes.

1 Q Do you have any recollection of doing so?

2 A Very few things weren't shared but  
3 something like that, I believe I would have mentioned  
4 to Larry. Ira called on a case involving --

5 Q In your practice in reporting to Mr. Potts  
6 at the time, would that have been done orally or  
7 would there have been a written record?

8 A Orally. What would have happened is this  
9 would have been, the response would have been in  
10 writing and Larry would have had a copy of it. I  
11 would guess there would be some sort of upward  
12 response rather than just an oral briefing.

13 I would think somewhere along the line if  
14 the sensitivities, if they called and they said yes,  
15 we have a referral, and yes, the candidate is a  
16 listed as a witness, history tells me that would go  
17 up.

18 (Discussion off the record.)

19 BY MR. COLE:

20 Q Continuing to focus, Mr. Verinder, on the  
21 initial inquiry to the Federal Bureau of  
22 Investigation from the Department of Justice, I

1 believe before we took a brief break you indicated  
2 that that would be the kind of inquiry that you would  
3 have reported to Mr. Potts; is that correct?

4 A Correct.

5 Q And I would ask the same question, do you  
6 have a view as to whether that's the kind of inquiry  
7 Mr. Potts would report to the director?

8 A I don't think at that moment we would go to  
9 the director. And you are saying just a phone call?

10 Q Yes, and perhaps I should be more specific  
11 in my question. Do you have any knowledge as to  
12 whether Mr. Potts made any report, oral or written,  
13 to the director on that initial phone call?

14 A I don't. And it wouldn't be something that  
15 I would, if I was acting director or acting assistant  
16 director, at that moment -- I mean, I got a phone  
17 call coming from the Department and I would go ahead  
18 and get the facts and then make a decision if it  
19 needs to go up.

20 Q Still focusing on the initial phone call,  
21 did you have any understanding as to whether the  
22 Attorney General had an interest in this matter?

1       A    I do not believe the Attorney General was  
2 even -- his name even would come up. I mean, Ira  
3 never said I'm calling on behalf of the Attorney  
4 General or the Attorney General is most interested.  
5 It would be Ira calling me.

6       Q    That was my question in general terms.

7       A    That would startle --

8       Q    As to whether anything was --

9       A    I would really remember if he said the  
10 Attorney General is calling you. I normally do not  
11 get phone calls from the Attorney General.

12      Q    And so just to be as clear as we can for  
13 the record, you have no recollection of having any  
14 understanding at that time if Mr. Raphaelson needed  
15 that information for the Attorney General?

16      A    I don't have any recollection at all. He  
17 was calling on behalf of himself. I don't know what  
18 caused him to call. I understand it was some article  
19 or inquiries, but I don't know if that's -- if I  
20 recall the phone call correctly, it was short and  
21 what do you know about this, do you have a case on  
22 it.

1       I said I don't know. I'll find out. I  
2 don't know and I'll find out. I think it was a short  
3 call. I don't recall it being a long discussion.

4       Q    That's helpful. Do you recall the second  
5 contact on that subject?

6       A    Other than the question that Alice raised  
7 regarding the meeting that we had with Mueller and  
8 Ira, that's -- and I don't recall that meeting, but  
9 that might have been how we conveyed the information,  
10 let's sit down and talk about it. We were calling  
11 and asking for the meeting. I don't recall calling  
12 Ira back and saying this is what we've done.

13      Q    So you don't recall telephoning  
14 Mr. Raphaelson or anyone else in the Department of  
15 Justice if the inquiry was from someone other than  
16 Mr. Raphaelson and responding to the inquiry?

17      A    I don't recall. I could have. And if I  
18 reported back, it would have been reporting back to  
19 Ira. I wouldn't -- if he raised an issue with me I  
20 wouldn't take it to the fraud section. Sometimes  
21 they all come together, but I looked at that as  
22 somewhat of a separate -- Ira's role was overall, all



1 banks, and fraud had a lot of other things beside  
2 banks. So if I reported back, I would have reported  
3 directly to Ira, Potts would have reported to Ira.  
4 Both of us had interface with Ira.

5 Q I think you've already answered this  
6 question, but just to close the loop, you don't  
7 recall a second inquiry; you recall only one?

8 A A second phone call?

9 Q Yes.

10 A I don't know.

11 Q So other than one phone call and the  
12 October 8th meeting you've testified to previously,  
13 you don't recall any other contacts with the  
14 Department of Justice up until October 8th?

15 A I would have had probably daily contact.

16 Q On this matter.

17 A On this matter? I don't recall unless I  
18 reported back to Ira on the facts, what happened, and  
19 I don't recall how long it took them to find the  
20 information and report back. I don't -- what I'm  
21 guessing as a time line is since we had the meeting  
22 the 7th or the 8th, whenever we had it, it probably

1 took us some time to research and then get out to  
2 that field office and find out, get some information  
3 back and then prepare and schedule a meeting. I  
4 possibly furnished Ira a summary of it, but then if I  
5 did why would we have had the meeting the 8th.

6 So just the way things would always go I  
7 would conclude that we got the information and said  
8 this is what we got and then he probably said let's  
9 bring Mueller into the meeting.

10 Q Thank you for that clarification. I do  
11 wish to emphasize that I do not want you to speculate  
12 about what's possible or what might have occurred in  
13 the normal course of events. I think it would be  
14 most helpful if you limited your response to what you  
15 actually remembered occurred in this instance.

16 And so we're clear on that, do you recall  
17 anything occurring between the telephone inquiry and  
18 the meeting on October 8th?

19 A Do not.

20 Q You don't. I'd like to show you a  
21 document, FBI 1062, that appears to be a draft of a  
22 chronology. It has a handwritten entry, third entry,



1 September 22nd, '92 that reads "E-mail to Verinder  
2 from Kubic re: Ira hearing rumblings on case." Do  
3 you have any recollection of the matters that are  
4 referenced in that chronology entry?

5 A "E-mail to Verinder from Kubic re: Ira  
6 hearing rumblings on case." I don't recall seeing a  
7 chronology with that in it. Is that when we think  
8 the phone call took place, on the 22nd?

9 Q I have no idea. I was hoping that this  
10 could help you. I will tell you that the reason I  
11 showed it to you was the date of 9/22 is, as you can  
12 see, two weeks before October 8th. So the timing to  
13 me does indicate contacts between Mr. Raphaelson and  
14 the FBI at a time well in advance of the October 8th  
15 meeting.

16 A See, I would read that as Ira calling me on  
17 the 22nd and then asking what's going on on a case  
18 that he heard about. If I recall right, Lance, he  
19 was calling to ask what did I know about a case, so  
20 the inference is he knew about a case or heard about  
21 a case or something about a case. I don't recall him  
22 telling me how he heard about it, but he heard about

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1 it and that's what I would -- I don't recall ever  
2 seeing a chronology like this, time lines like this,  
3 but that's what I would -- and I know it seems like  
4 he's telling me the fact, but it's -- I doubt if Ira  
5 would call Kubic.

6 Q I actually read that entry as an E-mail to  
7 yourself from Kubic "re: Ira" and I had assumed that  
8 this would indicate that there had been contact  
9 between Mr. Raphaelson and Mr. Kubic that was the  
10 subject of an E-mail to you, but I can only read  
11 what's on the paper.

12 A I don't think that happened very often.  
13 Kubic, Raphaelson, Potts and above, yes. Generally  
14 not lower because Ira was special counsel to the  
15 Attorney General and if he couldn't find us he could  
16 pick it up. But I don't know if he ever had any  
17 dealing with Kubic. I read it as maybe Mike -- him  
18 saying that, you know, I called Kubic and said hey,  
19 what's going on, Ira called me and said there are  
20 questions on the Department -- interest in this  
21 matter here.

22 Q On the subject of chronologies, since I've

1 shown you this draft, do you recall requesting that a  
2 chronology be prepared of events in 1992?

3 A We use time lines all the time on every  
4 major case, so a lot of times I wouldn't even have to  
5 request it. It would be done because it was just so  
6 helpful when we're briefing the director, briefing  
7 someone or following a case on our own. So I don't  
8 recall ordering this, to answer your question,  
9 specifically, but it wouldn't have been unusual for a  
10 section to provide something because it was done  
11 constantly.

12 Q And in the interest of full disclosure I  
13 should tell you that Mr. Kendrick has testified that  
14 his recollection at least was that you asked him and  
15 Ms. Erickson to prepare a chronology and I'm just --  
16 and my question was -- if you recalled that I was  
17 going to ask you what the purpose was, but if you  
18 don't recall it I don't suppose you can answer that  
19 question.

20 A Don't recall it but we had them  
21 constantly. It was an SOP. On major cases I wanted  
22 a chronology of it. Potts wanted a chronology. We

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1 would call them time lines.

2 Q Let me show you another document which I  
3 believe to be the final version of that chronology.  
4 It's FBI 959 through 962 and it has a cover note on  
5 it, page 959.

6 (Witness reviewed the document.)

7 A "The final version of the chronology.  
8 Sorry, no tags." It looks like "Jane, this is the  
9 final" --

10 Q You are actually focusing on the word that  
11 I wanted you to testify about. I believe that word  
12 is "approved," but you tell me if that's how you read  
13 it.

14 A I want to say "affirmed," but I was  
15 thinking of those Ps being Fs, but "approved version  
16 of the chronology. Sorry, no tags. Thanks, Kevin."

17 Q Do you recall -- take as much time as you'd  
18 like to look at it, but do you recall seeing that  
19 document before, Mr. Verinder.

20 (Witness reviewed the document.)

21 A There's no date on it. I'm aware of the  
22 information in the memo -- I mean the time line. I

1 don't necessarily recall seeing this exact  
2 chronology, but when you showed me a copy of the  
3 letter of U.S. Attorney Banks I was familiar with it  
4 and I see the contents of the letter are almost  
5 verbatim here.

6 So I don't know if this is the reason I  
7 know it or read the letter from Banks, but there's  
8 nothing here that I'm not aware of.

9 Q Directing your attention back to the  
10 handwritten cover note on page 959, did you approve  
11 this chronology or time line?

12 A I don't recall ever seeing the time line.  
13 By the time it got to me -- it wouldn't be a matter  
14 of me approving, it would be approved by Kubic and  
15 then if it was -- there would be my name on it and I  
16 would put an F on it and then move it on. This looks  
17 like it's in draft form and for what exact purpose --  
18 it looks like there was tabs, which must have had the  
19 original documentation, but I don't know what it was  
20 for.

21 Q I noted that the entry that we'd previously  
22 read on the draft document, which is number FBI 1062,

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1 the 9/22/2 entry, is not in this second document that  
2 we've been reviewing, which appears to be a more  
3 final if not the final version. Do you recognize the  
4 handwriting on this document, 959?

5 A No.

6 Q So I take it I've exhausted your knowledge  
7 as to these documents and how they came to be  
8 prepared?

9 A Uh-huh. I do not recall this document at  
10 all, why tabs were prepared, this writing here or why  
11 this date is not on here.

12 Q Thank you. I'd like to show you another  
13 document, FBI 523 through 525, which is the Air-tel  
14 or teletype from "Director, FBI to FBI Little Rock"  
15 dated October 9, 1992 that I understand to have been  
16 sent subsequent to your meeting on October 8th with  
17 Mr. Mueller and Mr. Raphaelson and others; is that  
18 correct?

19 A Correct.

20 Q Do you recall directing that that teletype  
21 or Air-tel be sent to Little Rock?

22 A I and/or Potts. I remember discussing that



1 we need to find out what the facts there.

2 Q Do you have a recollection as to whether or  
3 not Mr. Potts was present for the October 8th  
4 meeting?

5 A I don't recall. I don't recall the  
6 meeting, and I'm going back into history. It  
7 wouldn't happen without Potts or I being there.  
8 Generally both, but --

9 Q I'll tell you the reason for my question --  
10 and you've testified I think quite fully on this  
11 previously as to your recollection of the meeting.  
12 The documents do not indicate that Mr. Potts was  
13 present, at least the documents that I've seen.  
14 However, some witnesses have testified they recall  
15 him being there, some have testified they don't and I  
16 was just checking if you have a recollection.

17 A Knowing Larry when the meeting took place  
18 with Mueller --

19 Q Again, I don't want you to speculate, but  
20 you have no recollection?

21 A I have no recollection who was at the  
22 meeting or if even if I was at the meeting.

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1 Q Thank you. Let's go back, then, to the  
2 document.

3 A I can talk -- about the document, I  
4 remember discussing limitations of the investigation.

5 Q That's actually what I'd like to discuss  
6 with you.

7 A We did not want this to go beyond review of  
8 the records to make a determination as to what we  
9 have. No interviews, no knowledge of this outside.

10 Q The sentence on the second page of the  
11 document, FBI 524, that reads "Little Rock is  
12 requested to submit results of this limited  
13 investigation and anticipated investigative and  
14 prosecutive plans by COB," which I read to be close  
15 of business, "October 16th, 1992 to FBI headquarters,  
16 attention Kevin B. Kendrick."

17 Can you tell me how that date of October  
18 16th was set?

19 A Other than that it was a week, no. It  
20 wouldn't take them any longer. Vaguely I recall  
21 discussions with Little Rock as to what we wanted  
22 them to do and how long they thought it would take.



1 And recognizing it would require them to prioritize  
2 other investigations and take the time to do this, I  
3 think one week was agreed to be reasonable.

4 Q And is that the discussion that you  
5 testified to previously with Mr. Pettus that you said  
6 became heated at one point? Is that a yes? For the  
7 reporter, an audible response.

8 A I'm sorry.

9 Q The reporter needs an audible response for  
10 the record.

11 A The question, though.

12 Q The question: Was the discussion that you  
13 just referred to with Little Rock concerning the  
14 reasonableness of this date the same discussion that  
15 you previously testified to with Mr. Pettus of the  
16 Little Rock office that became heated?

17 A I do not recall if it was our outgoing of  
18 this date or the one of the 16th or the communication  
19 you showed me.

20 Q The incoming communication from Little  
21 Rock?

22 A That teletype had a date on it with a phone

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1 call. Take a look and see if that -- see, I don't  
2 see a reference of a telephone call with the SAC.  
3 This appears to be with the supervisor, Irons.

4 Q Let me show you FBI 526 through 528, which  
5 may be the teletype that you have in mind.

6 A See, this teletype refers to a phone call  
7 from the SAC specifically to FBI headquarters on the  
8 9th. This is dated the 9th.

9 Q My understanding of your prior testimony  
10 was that the discussion -- and please correct me if  
11 I'm wrong -- was that the discussion with Mr. Pettus  
12 would have had to have taken place previous to this  
13 October 16th communication because it involved review  
14 of the documents that as of this October 16th  
15 communication had been reviewed?

16 A I don't know if the conversation took place  
17 before we sent this or upon receipt of this.

18 MS. SIMONTON: Can we clarify what you are  
19 talking about when you say "this," because you have  
20 two documents in front of you.

21 THE WITNESS: I'm not sure of the  
22 conversation that we had with Pettus -- that Larry

1 and I had with Pettus took place before we sent the  
2 communication of 10/9 or upon his receipt of the  
3 teletype of 10/9, but it took place at the latter  
4 part, like 6:30 at night. And if we can find out  
5 when this was sent, we might be able to say that  
6 caused a reaction because looking at the teletype of  
7 October 16th, it references a phone call on the 9th.  
8 I believe the heated conversation took place because  
9 the contents of this.

10 BY MR. COLE:

11 Q And "this" being the October 9th teletype?

12 A The October 9th. I can't tell you if it  
13 happened before or after the teletype.

14 Q Well, at least -- and I think you've  
15 answered my question. My question only went to  
16 whether that heated conversation involved this  
17 teletype and I think you've said --

18 A It involved the expenditure of resources in  
19 an area that I guess he and the U.S. Attorney didn't  
20 believe needed to be expended.

21 Q Coming back to the date that's given for a  
22 response in the October 9th teletype, which is

1 October 16th, and the October 9th teletype requests a  
2 report back by that date. What was to be done with  
3 that report?

4 A Which report?

5 Q The October 9th teletype says "Little Rock  
6 is requested to submit results of this limited  
7 investigation and anticipated investigative and  
8 prosecutive plans by close of business October 16th,  
9 1992."

10 That information that I've just read from  
11 this, what was to be done with that information?

12 A Send us a teletype advising us of what you  
13 found, what you believe and what you are going to do.

14 Q And the "us" in your answer would be?

15 A Pardon?

16 Q The "us" would be yourself, Mr. Potts?

17 A White-collar crime section.

18 Q And my question goes to the next step, as  
19 to what did you intend to do with that information  
20 once you received it?

21 A It would have been sent to us in the form  
22 of a teletype where we would have then agreed or

1 disagreed with what their proposed action would be.  
2 We weren't looking for a report to do any  
3 dissemination. We would have been looking for facts  
4 to agree with the posture being taken by the Little  
5 Rock office and U.S. Attorney's office.

6 Q I didn't mean to confuse you with the word  
7 "report," response might be a better word to your  
8 October 9th teletype.

9 And did you intend to provide that  
10 information to the Department of Justice?

11 A I would believe we would provide that to  
12 the U.S. Attorney -- to the Department of Justice,  
13 yes.

14 Q And did that, in fact, take place?

15 A I do not recall that taking place, but it  
16 must have because we had an outstanding inquiry and  
17 I'm sure there would have been follow-up as to what  
18 is the posture. I don't know if they had ongoing  
19 conversation with the U.S. Attorney themselves, which  
20 they could have had through -- the deputy generally  
21 had a line to the U.S. Attorneys. I do not recall  
22 providing this information back to him, but probably

---

1 we did.

2 Q Recognizing that you don't recall providing  
3 that information to the Department of Justice, do you  
4 have any knowledge as to whether others in the FBI  
5 did so?

6 A Do not.

7 Q The heated discussion with Mr. Pettus that  
8 you testified to earlier that occurred at or about  
9 the time the October 9th teletype was sent to Little  
10 Rock, did Mr. Pettus question why he was being asked  
11 to take the steps that are laid out in the October  
12 9th teletype?

13 A It was the impression, to the best of my  
14 recollection, that a decision had been rendered  
15 without the FBI personally reviewing all the  
16 records. Although the records were voluminous and  
17 time-consuming, we thought it was absolutely  
18 necessary to reach a conclusion with the FBI that we  
19 were going to accept responsibility down the road of  
20 not doing an investigation, what were the contents of  
21 the records. It was my understanding at this moment  
22 that those records had not been reviewed by the FBI,



1 but had been reviewed by the U.S. Attorney's office.  
2 What we were asking is that they, the FBI, review  
3 those records.

4 Q Did you have any reason for directing  
5 Mr. Pettus to review those records other than your  
6 concern that the Bureau had not yet reviewed them?

7 A No.

8 Q Did anyone at the Department of Justice  
9 direct you to have the Bureau review those records?

10 A No, if my recall of the DOJ's involvement  
11 was the question of what was -- is there and what is  
12 it. And I recall asking Pettus have you reviewed it  
13 all. He answered no, we haven't reviewed it all.

14 Well, we want you to review it and that's  
15 kind of why should I do it if we have -- the U.S.  
16 Attorney doesn't want to investigate it. If you  
17 disagree with the U.S. Attorney, we'll cross that  
18 bridge when we get there, but go review it and we got  
19 into that discussion.

20 Q To make sure my question is as clear as it  
21 can be, at any time, either before or after the  
22 October 8th meeting with the Department of Justice

1 officials, did anyone at the Department of Justice  
2 instruct you or anyone else at the FBI to review the  
3 exhibits to that referral?

4 A No.

5 Q You mentioned in your earlier testimony  
6 when Ms. Fisher was asking you questions that there  
7 was a concern at the FBI that the RTC had information  
8 that the FBI did not. Do you recall that?

9 A Yes, I do. The concern I had with this  
10 matter is why weren't we getting the information on a  
11 timely basis. Was there some issue here that we  
12 needed to be aware of -- not sinister, just why --  
13 because we had a good relationship with the RTC. It  
14 wasn't like they would ever conceal facts from us. I  
15 was at that point concerned. I said let's get the  
16 details.

17 Q Did you have an understanding or impression  
18 that the Department of Justice had received  
19 information from the RTC on this matter?

20 A I --

21 MS. SIMONTON: Can we get a time frame?

22 MR. COLE: At any time up to the present.



1 BY MR. COLE:

2 Q Did you ever come to understand that the  
3 FBI -- I'm sorry, that the Department of Justice had  
4 received information from the RTC on this 1992  
5 criminal referral?

6 A I don't know if it ever became an issue.  
7 Could they have received it, sure, but I don't  
8 remember that being a point of contention, that they  
9 had information they didn't give us.

10 Q "They" being the Department of Justice?

11 A I don't remember, yeah, that the DOJ had  
12 information that we were not given.

13 Q Are you --

14 A If you are saying DOJ, main Justice versus  
15 DOJ, U.S. Attorney's office.

16 Q Yes, thank you for that clarification.  
17 When I say "DOJ" I'm referring to main Justice.

18 A I don't recall them -- or an issue ever  
19 being raised that they had information they weren't  
20 sharing with us.

21 Q My question, actually, is a little bit  
22 different than that. Do you have any knowledge that

---

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1 main Justice here in Washington received information  
2 about this referral or the matters in this referral  
3 from the RTC in about September or October of 1992?

4 A I can't at this moment tell you when I was  
5 called -- with the assumption I was called. I mean,  
6 that's where I think the information came from -- how  
7 they came to know this. I don't remember now. When  
8 you read this, it appears to be a newspaper inquiry  
9 and they ran -- and I don't know if I was told that  
10 or if I was just asked the question, but I believe I  
11 was just asked a question, not that we have a  
12 newspaper inquiry or that RTC told us. I do not  
13 recall at all any information from main Justice  
14 having information from RTC. That was not shared  
15 with us. We didn't have copies of --

16 Q Thank you. The document that we've been  
17 reviewing dated October 16th, 1992, the teletype from  
18 FBI Little Rock to FBI Washington, makes reference on  
19 the third page and you previously testified to two  
20 other failed Little Rock savings and loan  
21 institutions. What does this teletype indicate  
22 should be done in that regard? Take a moment to

1 review it if you would like, page 3.

2 (Witness reviewed the document.)

3 A I draw the conclusion that Little Rock was  
4 asking us to try and influence RTC to provide  
5 referrals on the two savings and loans.

6 Q And do you know have any knowledge as to  
7 what was done by FBI headquarters in response to that  
8 communication from Little Rock?

9 A I believe an inquiry was made and a  
10 promise -- an inquiry was made of RTC and a promise  
11 was made to provide the information. I can't tell  
12 you that was ever done, that we ever received the  
13 information, but I believe there was follow-up to  
14 this. The sensitivity of this was pretty high at  
15 this point between the Little Rock and headquarters  
16 and I wanted to make sure if they were asking for our  
17 help we provided it. I believe we made an inquiry of  
18 RTC and I don't know if we ever got them or not.

19 Q Do you know who made that inquiry?

20 A I would guess that Ron Dick's unit.

21 Q And did you direct them to do that?

22 A I would guess I would have. If they made a

1 request to do it I would have said let's cooperate  
2 with Little Rock as much as we can.

3 Q And do you have any knowledge as to whether  
4 or not any criminal referrals were ever received in  
5 those institutions?

6 A Do not.

7 Q Do you have any knowledge as to whether,  
8 notwithstanding whether or not referrals were  
9 received, whether the RTC undertook any investigative  
10 efforts in those two institutions?

11 A That they took investigative effort, what  
12 do you mean by that?

13 Q This document you correctly read speaks in  
14 terms of providing referrals and what I was trying to  
15 do was draw a distinction between -- presumably if an  
16 investigation take place and no criminal conduct is  
17 found or no potential criminal conduct is found, then  
18 there would be no referral, but there still might be  
19 some investigation. My question was simply whether  
20 you were aware of whether any investigation actually  
21 occurred?

22 A By the FBI?

1       Q    By the RTC. If someone from your unit or  
2 the units that reported to you contacted the FBI and  
3 brought these two institutions to their attention to  
4 take some action, investigative action, do you have  
5 any knowledge as to whether that occurred?

6       A    All I know here is that they made a request  
7 for two referrals and we tried to follow up with RTC  
8 for those referrals. I don't know if there was an  
9 investigation done by anyone, RTC or the FBI.

10       MR. COLE: I don't have anything further.

11       MS. FISHER: Nothing. Thank you so much  
12 for coming.

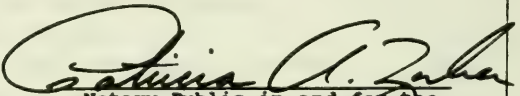
13       (Whereupon, at 1:38 p.m., the deposition  
14 was concluded.)

15  
16 -----  
17           FRED B. VERINDER  
18  
19  
20  
21  
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires FEBRUARY 14, 2000



PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
5	1	omit		
5	6	omit		
5	9	omit		
5	10	omit		
5	13	omit after "with the FBI"		
5	14	omit		
6	2	omit "I"		
6	3	omit		
6	4	omit		



**DEPOSITION OF PAULA CASEY  
IN RE: S. RES. 120**

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**WEDNESDAY, NOVEMBER 1, 1995**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Deposition of PAULA CASEY, called for examination pursuant to notice of deposition, at 11:00 a.m. in Room 640-A of the Hart Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

**MICHAEL CHERTOFF, Esq.  
Majority Special Counsel  
LOUIS J. GICALE, Esq.  
Majority Deputy Special Counsel  
RICHARD BEN-VENISTE, Esq.  
Minority Special Counsel  
NEAL E. KRAVITZ, Esq.  
Minority Principal Deputy Special Counsel  
ANDREW M. SCHAUER, Esq.  
Minority Assistant Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.**

**CHARLES J. SGRO, Esq.  
PAUL J. FISHMAN, Esq.  
U.S. Department of Justice  
Tenth Street & Constitution Avenue, NW  
Washington, DC 20530  
On behalf of the Deponent.**

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## 1                   P R O C E E D I N G S

2   Whereupon,

3                   PAULA CASEY

4   was called as a witness and, having first been duly  
5   sworn, was examined and testified as follows:

## 6                   EXAMINATION

7           BY MR. CHERTOFF:

8           Q   Ms. Casey, before we proceed, I am going to  
9   just outline some preliminary observations about the  
10   nature of the proceeding. This is a deposition  
11   conducted pursuant to Senate Resolution 120 which  
12   establishes a special committee to conduct an  
13   investigation into Whitewater Development Corporation  
14   and other related matters.15           And pursuant to that resolution, we are  
16   examining, among other things, the handling of RTC  
17   criminal referrals relating to Madison Guaranty  
18   Savings & Loan Association and Whitewater, as well as  
19   other matters relating to Whitewater and affiliated  
20   entities.21           This deposition is being taken in advance  
22   of a public hearing that I anticipate will begin next

4

1   week, and I would say there is a good likelihood you  
2   will be asked to testify at the hearing.3           When and if the hearing begins, or I should  
4   say when the hearing begins, at that point some or  
5   all of the deposition may become public and  
6   eventually all of it will become part of the public  
7   record. Until that time the deposition will be held  
8   committee confidential.9           Now we are going to proceed by way of my  
10   asking you a series of questions which you are  
11   obliged to answer under oath. If you don't  
12   understand a question, let me know and I will  
13   rephrase it. If you want to take a break to consult  
14   with Mr. Fishman or you want to take a break for some  
15   other reason, let me know and we will go off the  
16   record.17           Now, why don't you put on the record, Paul,  
18   exactly in what capacity you are here.19           MR. FISHMAN: I am Paul Fishman, Associate  
20   Deputy Attorney General and with me is Charles Sgro,  
21   counsel to the Deputy Attorney General. We are  
22   appearing on behalf of the Department of Justice and

1 representing Ms. Casey in her official capacity.

2 BY MR. CHERTOFF:

3 Q You will have the opportunity to review the  
4 deposition probably as soon as it is prepared for  
5 purposes of making any corrections. I should tell  
6 you if you make corrections other than ministerial or  
7 clerical corrections, that could be the basis to  
8 redepose you in the future.

9 Approximately four days before you testify,  
10 you will get a copy of your transcript so you can  
11 prepare, on the condition you agree to keep that  
12 transcript confidential between you and your  
13 counsel.

14 Counsel is obviously going to have the  
15 opportunity to make objections during the course of  
16 the deposition, please let us put whatever we have to  
17 put on the record and then you can go ahead and  
18 answer the question. The two exceptions to that are,  
19 two circumstances under which you may be instructed  
20 not to answer: One is if there is an issue of  
21 privilege, and the second is if there is an issue of  
22 a question being beyond the scope of the resolution.

1 In that instance, please wait until we  
2 resolve it; if we can't resolve it, ultimately we may  
3 take it to the chairman of the committee for  
4 resolution.

5 Are there any questions about what I have  
6 said?

7 A No.

8 MR. BEN-VENISTE: I have a question. My  
9 question is that the injunction with respect to the  
10 use of the transcript is different than my  
11 recollection of your injunction in other proceedings  
12 here. What I understood that we were requesting in  
13 connection with the transcript is that the transcript  
14 not be disseminated.

15 MR. CHERTOFF: Correct, distributed or  
16 disseminated to anybody besides you and your counsel.

17 MR. BEN-VENISTE: In terms of the  
18 confidentiality of the proceeding, it is always the  
19 witness's opportunity to discuss her testimony with  
20 anyone.

21 MR. CHERTOFF: That's true. That's a fair  
22 correction, and of course, you can be asked about

1 that, but in terms of the actual transcript itself,  
2 the condition of receiving it is to restrict its  
3 distribution or dissemination to you and your  
4 counsel.

5 With that amendment, is there any question  
6 or anything you want to put on the record before we  
7 begin?

8 MR. FISHMAN: No. We don't need to discuss  
9 this on the record. I have had some preliminary  
10 discussions with Mr. Ben-Veniste and his staff about  
11 Ms. Casey's availability for public hearing. We have  
12 previously written to the committee to advise the  
13 committee she has a prepaid visit to Italy next week  
14 so we'd need to discuss the logistics if it  
15 becomes --

16 MR. CHERTOFF: We can do that after the  
17 fact.

18 BY MR. CHERTOFF:

19 Q You are currently the United States  
20 Attorney for Little Rock?

21 A I am.

22 Q When did you graduate from law school?

---

8

1 A 1977.

2 Q When did you first discuss with anybody the  
3 possibility of becoming a United States attorney in  
4 Little Rock?

5 A November 1992.

6 Q And with whom did you have the discussion?

7 A Dale Bumpers.

8 Q When in November?

9 A I am not sure of the exact date. It was  
10 the first time I saw him following the election in  
11 November, but I think it was probably a couple of  
12 weeks after the election. I think I -- I think he  
13 was gone for a few days, I was gone for a few days.

14 Q And how do you know Mr. Bumpers?

15 A I was his legislative director at the time.

16 Q So you were actually working for him?

17 A I was.

18 Q Who brought up the subject?

19 A He did.

20 Q What did he say to you?

21 A He asked me if I had any interest in being  
22 the United States Attorney.

1 Q And what did you say?

2 A That I had never thought about it.

3 Q Now, was there an incumbent U.S. Attorney  
4 in at the time?

5 A There was an incumbent U.S. Attorney, yes.

6 Q That was Charles Banks?

7 A Yes.

8 Q He announced at that point his intention to  
9 resign?

10 A He announced his intention fairly soon  
11 after the election, but I don't remember exactly  
12 when.

13 Q Would it refresh your memory if I told you  
14 it was sometime in January of 1993?

15 A No.

16 Q Doesn't ring a bell?

17 A I know that -- I know that he announced his  
18 intention to resign, I remember seeing it in the  
19 newspaper, that was at some point long before the job  
20 had actually been offered to me, so --

21 Q After this conversation with Senator  
22 Bumpers, what further conversations did you have

---

10

1 about the position of the United States Attorney?

2 A I don't recall that we ever had any lengthy  
3 conversation. I continued to work for Senator  
4 Bumpers until January of '93, late December of '92,  
5 somewhere in there.

6 Q And then what did you do?

7 A I returned to the law school in Little  
8 Rock. I was on a leave of absence from the law  
9 school faculty.

10 Q And what was your position on the faculty?

11 A As a professor of law.

12 Q What subject?

13 A I taught trial advoc the semester I  
14 returned, trial advocacy.

15 Q Anything else?

16 A Not that semester, that was a sole  
17 responsibility course.

18 Q At the period of time before you went on  
19 leave to work for Senator Bumpers, had you been  
20 teaching at the university law school?

21 A Yes.

22 Q What subjects?



1       A    I taught family law, juvenile law; I  
2 started out teaching in the clinic, which is -- was a  
3 live client clinic teaching practice skills and  
4 lawyering skills to law students. Taught  
5 professional responsibility, I don't remember, it is  
6 too many years, it is a small school. I taught a lot  
7 of different things.

8       Q    In your time -- did you practice, while you  
9 were a teacher, on the side?

10      A    No.

11      Q    So you didn't have a side legal practice or  
12 take cases while you were teaching at the school?

13      A    No, except to the extent that we  
14 represented the clients in the clinic, but the  
15 purpose of the clinic is to allow the students to  
16 practice, and I was the attorney of record but the  
17 purpose was to teach them the skills.

18      Q    Now, before you had your conversation with  
19 Senator Bumpers in November of 1992, had you had any  
20 experiences as an assistant U.S. Attorney?

21      A    No.

22      Q    Had you had any experience as a prosecutor?

---

12

1       A    No.

2       Q    What had been your criminal law experience  
3 before November of 1992?

4       A    I was a deputy public defender for the 6th  
5 Judicial District public defender's office for a  
6 short period of time before joining the faculty at  
7 the law school in the clinic.

8            My -- initially when I went to the law  
9 school, I was still associated with the public  
10 defender's office as a part of the clinic and the  
11 clinic continued to represent clients in criminal  
12 matters.

13      Q    How long were you with the public  
14 defender's office?

15      A    I began with the public defender's office  
16 in February of 1979. I am not certain how long I  
17 stayed on their payroll. They had a grant, and the  
18 grant was in conjunction with the law school, I  
19 actually moved my office to the law school in the  
20 fall of 1979. But I don't recall how long I actually  
21 stayed on the public defender's payroll.

22      Q    Where is the 6th Judicial District?

- 1 A Pulaski and Perry Counties.  
2 Q Is there a city there?  
3 A Little Rock.  
4 Q At that period of time, in 1979, let's say,  
5 to 1980, did the public defender's office handle  
6 federal cases or just state cases?  
7 A No. It is a state public defender's  
8 office; it is not federal.  
9 Q No federal court appearances?  
10 A No.  
11 Q Did you handle criminal cases in state  
12 court for the public defender's office?  
13 A I did.  
14 Q For how long a period of time? I mean you  
15 personally not supervising as a teacher but you  
16 personally handling cases.  
17 A From February of '79 until the fall of '79  
18 I continued to represent clients, it was a dual  
19 responsibility. I don't know how to explain it any  
20 better than that.  
21 Q Let's break it down.  
22 From February -- you went on to the

- 1 university in the fall of '79?  
2 A Yes.  
3 Q So from February '79 to the fall of '79,  
4 you were full-time with the public defender's office?  
5 A Yes.  
6 Q During that six months you handled a  
7 caseload of criminal cases?  
8 A I did. But I also, part of my  
9 responsibility at the public defender's office was to  
10 assist with the law students who worked in the public  
11 defender's office. So it -- even during that period  
12 of time, I was working with the law students.  
13 Q But during that six-month period before you  
14 moved your office over to the university, you  
15 personally handled cases in court, in Little Rock?  
16 A Yes.  
17 Q Did you try cases?  
18 A I did.  
19 Q Felony cases?  
20 A No.  
21 Q Misdemeanor cases?  
22 A I'm sorry, I handled some felony cases but

1 I was primarily assigned to the juvenile court  
2 because that's where the law students practiced.

3 Q I don't know what the situation in Arkansas  
4 was in '79 so I will ask you, in 1979, were cases of  
5 all degrees of seriousness involving juveniles  
6 handled in juvenile court?

7 A No.

8 Q What cases involving juveniles were handled  
9 in juvenile court and what cases handled in other  
10 courts?

11 A When I said "also," that may have been the  
12 wrong answer. Juveniles were charged -- a  
13 delinquency could be a felony or misdemeanor or any  
14 violation of criminal law but above a certain age --  
15 above the waiver age, they were charged in adult  
16 court.

17 Q Now when you were handling cases in the six  
18 months before you moved your office to the University  
19 of Arkansas, did you handle cases in juvenile court  
20 that involved crimes that would be considered  
21 felonies if they were committed by adults?

22 A Yes, I did.

1 Q Did you try cases?

2 A Yes.

3 Q About how many cases did you try?

4 A I tried several cases a week. I don't know  
5 a number.

6 Q So they were short trials?

7 A Some were short trials.

8 Q What was -- just, if you can estimate for  
9 us, what was the longest case you tried in the period  
10 between February '79 and the fall of '79?

11 A Maybe a couple of days.

12 Q And when you moved over to Arkansas law  
13 school, did you continue to personally handle cases  
14 in court?

15 A I moved to the University of Arkansas,  
16 Little Rock.

17 Q At the law school?

18 A Yes.

19 Q Did you continue to handle cases  
20 personally?

21 A Yes, I did.

22 Q And go to court?

- 1 A I did.
- 2 Q Did you try cases?
- 3 A I did.
- 4 Q And for how long after that did you  
5 continue to try cases after you moved?
- 6 A For as long as I was affiliated with the  
7 clinic.
- 8 Q Which was how long?
- 9 A Until 19 -- not every semester but until  
10 1986.
- 11 Q And throughout that period of time you --  
12 can you estimate how many cases you tried a year just  
13 generally?
- 14 A I honestly have no idea.
- 15 Q In 1993, did there come a time someone  
16 contacted you formally about being considered for the  
17 position of U.S. Attorney?
- 18 A Senator Bumpers called me.
- 19 Q When?
- 20 A March or April.
- 21 Q And what did he say?
- 22 A That he was going to forward my name.
- 

- 1 Q That was a surprise to you?
- 2 A Not really.
- 3 Q Had you previously discussed with him  
4 before that point in time whether you were going to  
5 be offered the position?
- 6 A We had talked briefly -- we didn't have  
7 long conversations about it. But he had mentioned it  
8 to me a couple of times, we spoke about it briefly in  
9 January of 1993.
- 10 Q When were you actually nominated by the  
11 President?
- 12 A To this --
- 13 Q To the U.S. Attorney position, when did the  
14 President actually formally nominate you to the  
15 Senate?
- 16 A In August of 1993.
- 17 Q Do you remember when?
- 18 A It was the first week of August, I believe,  
19 but I don't know the exact date.
- 20 Q Did you receive an interim appointment as  
21 U.S. Attorney in August?
- 22 A I did.



1 Q When?

2 A August -- excuse me, August the 13th, I  
3 believe, is the date that the judge signed the  
4 order.

5 Q Was it appointment by the Attorney General  
6 or appointment by the court?

7 A By the court.

8 Q Was it at the request of the Attorney  
9 General?

10 A It was.

11 Q Was it something that followed your being  
12 nominated?

13 A Yes.

14 Q Before you got the interim appointment, had  
15 you actually moved into the U.S. Attorney's Office to  
16 begin working there?

17 A No. I had not.

18 Q Had you been briefed at the U.S. Attorney's  
19 Office?

20 A I had spoken with the man who was the  
21 acting United States Attorney.

22 Q Who was that?

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20

1 A Richard Pence.

2 Q Was he the former first assistant?

3 A No.

4 Q What had he been before he became acting  
5 U.S. Attorney?

6 A He was the civil division chief, I believe.

7 Q Now, after you received the interim  
8 appointment, did you begin immediately working in the  
9 U.S. Attorney's Office?

10 A I began working on Monday, August the 16th,  
11 1993.

12 Q And who was your first assistant?

13 A There was no first assistant in the office  
14 at the time. I had to select one.

15 Q Who did you select?

16 A Michael Johnson.

17 Q And how -- did you know Mr. Johnson before  
18 you took the position as U.S. Attorney?

19 A I knew who he was.

20 Q How, through friends?

21 A No. He taught trial advocacy as an adjunct  
22 professor at the law school and I had met him there,

1 and at social events.

2 Q Now, when you came in, did you conduct any  
3 kind of case review in mid-August to see what the  
4 status of pending cases were?

5 A I didn't -- I didn't conduct a thorough  
6 case review in August, no, I did not.

7 Q How many assistants were there in the  
8 office in August of 1993?

9 A There were 19, I believe.

10 Q Were they located in Little Rock?

11 A Yes.

12 Q And how many were on the criminal side?

13 A Well, when I first got there, there was no  
14 criminal division/civil division. The distinction  
15 had been abolished and most of the -- many of the  
16 assistants were carrying both civil and criminal  
17 cases.

18 Q Forgive me. I thought you said that  
19 Mr. Pence had been the chief of the civil.

20 A Well, that was his -- that was his --  
21 that's my understanding of what his title was. But  
22 when I came to that office, one of the first things

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1 that I -- one of the first things that Richard  
2 advised me about was that Mr. Banks had abolished the  
3 civil division/criminal division distinction because  
4 of a backload of mortgage foreclosure cases that had  
5 created some problems in the office.

6 And Richard advised me that over a period  
7 of several years, that the people had sort of  
8 self-selected back to the civil/criminal division  
9 although many of the attorneys who were primarily  
10 handling criminal cases still had foreclosures and  
11 Richard advised me he thought I should institute the  
12 criminal division/civil division and that was one of  
13 the first things I did.

14 Q Did you, by way of comparison, do you  
15 recall in 1993, by the end of the year, how many  
16 indictments were handed up in the U.S. Attorney's  
17 Office in the Eastern District for the entire year?

18 A No, I don't. I have those statistics, but  
19 no.

20 Q Was it over a hundred?

21 A Yes. It was -- it was over 200, I am  
22 sure.

1 Q What was -- in terms of the criminal  
2 caseload when you came in in August, with a rough  
3 approximation, can you give us a sense of what the  
4 major categories of cases were?

5 A The major categories.

6 Q Yes, and the percentage of cases?

7 A About a third of the criminal caseload was  
8 drugs, drug related. There are a lot of gun cases,  
9 many of those in connection with drugs. The white  
10 collar is a much smaller percentage of the docket.

11 Q Now, did you have particular assistants  
12 designated to handle white collar cases?

13 MR. FISHMAN: When she got there or later?

14 BY MR. CHERTOFF:

15 Q When you got there.

16 A Were there particular assistants  
17 designated?

18 Q Yes.

19 A There were people who had been hired to do  
20 particular kinds of cases, there were people who just  
21 historically had handled certain kinds of cases. I  
22 learned that from visiting with them.

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24

1 Q In August of 1993, let's say August and  
2 September of 1993, how many assistants were handling  
3 bank fraud cases other than just teller  
4 misapplications, significant bank fraud cases?

5 A Several. Fletcher Jackson was, Bob Roddey  
6 was, and Pat Harris I know had one savings and loan  
7 case that was open when I came.

8 Q Anybody else?

9 A Ken Stoll, S-t-o-l-l, may have had bank  
10 fraud cases but -- he and Pat tried a savings and  
11 loan case together but I don't recall if that was  
12 still on when I got there.

13 Q Did you have assistants who were designated  
14 to handle public corruption or official corruption  
15 cases?

16 A Designated?

17 Q Yes.

18 A Michael Johnson had handled public  
19 corruption, probably the major public corruption case  
20 during the time that Chuck Banks was the United  
21 States Attorney.

22 Q Had anybody else handled corruption cases

1 of any significance that were still in the office  
2 when you came in in August of 1993?

3 A Not that I am aware. Not that I recall at  
4 this time.

5 Q During the course of August, did you come  
6 to learn about a case involving David Hale?

7 A Yes, I did.

8 Q Who did you learn it from?

9 A Fletcher Jackson. I'm sorry. That's not  
10 true, Richard Pence told me about that case before I  
11 started to work.

12 Q Before you actually came?

13 A Yes, he did.

14 Q What were the circumstances of that?

15 A On the Thursday night before I started to  
16 work, which would have been I believe August the  
17 12th, I called Richard to tell him that the  
18 Department wanted me to begin working the following  
19 week because I learned that he had not been notified  
20 and I thought that he should be. We spoke on the  
21 telephone that evening and he mentioned several  
22 matters in the office that were sensitive, several

1 things that were going on that he thought I needed to  
2 know about.

3 Q One of those was a case involving David  
4 Hale?

5 A It was.

6 Q What did he tell you about it?

7 A That there was a case involving David Hale.

8 Q Did he say what kind of case it was?

9 A I am sure he did. I don't remember the  
10 specific conversation but I am sure.

11 Q Did you know who David Hale was?

12 A I did.

13 Q How did you know?

14 A He was a municipal judge in Little Rock.

15 Q Had you ever met him?

16 A Not that I can recall right now. I am sure  
17 I had seen him at bar functions.

18 Q Just, in the state court system, is a  
19 municipal judge a state appointment or a local  
20 appointment?

21 A It is an elected position.

22 Q What's the jurisdiction in municipal court?



1 A Judge Hale's jurisdiction was countywide;  
2 he was a county municipal judge handling traffic  
3 offenses, first appearances in criminal cases.

4 Q In municipal court did judges try cases?

5 A Misdemeanors.

6 Q What, if anything, did Mr. Pence tell you  
7 about why the case involving David Hale was a  
8 sensitive case?

9 A I don't recall that he told me why it was a  
10 sensitive case. I knew why it was a sensitive case  
11 when he told me it involved David Hale.

12 Q And your opinion that it was a sensitive  
13 case was based on Mr. Hale's -- Judge Hale's  
14 position?

15 A Yes.

16 Q Was it based on the nature of the  
17 allegations?

18 A I am sure -- I don't recall that right now  
19 but I am sure that that also was true.

20 Q Did Mr. Pence tell you what the nature of  
21 the allegations were?

22 A I don't recall.

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28

1 Q Did he tell you who was the assistant  
2 handling the case?

3 A I don't recall. He may have, I didn't know  
4 Fletcher Jackson, so it wouldn't have --

5 Q When you came into the office, after you  
6 had your -- after you had been entered into duty as  
7 United States Attorney, did you seek out further  
8 information about the Hale case?

9 A I did.

10 Q How did you do that?

11 A I visited with Fletcher.

12 Q And where was that visit?

13 A In Fletcher's office.

14 Q Now, did you ask to see him or did he ask  
15 to see you?

16 A I asked to see him.

17 Q And how long was the meeting?

18 A I don't recall.

19 Q Who else was there --

20 A Maybe 30 minutes. Not a long period of  
21 time.

22 There was no one else there.

1 Q Did you -- you didn't bring your first  
2 assistant in?

3 A I didn't have a first assistant.

4 Q Did you bring any other senior -- did you  
5 have any supervisors on the criminal side when you  
6 came into the U.S. Attorney's Office?

7 A No, there was no one. Mr. Banks --  
8 Mr. Banks's first assistant was Mac Dodson. Mac  
9 Dodson left the office at the same time Mr. Banks did  
10 and went into private practice with him.

11 Q Was there a chief of criminal other than  
12 line assistants?

13 A No, there was none.

14 Q When did you decide to have Mr. Johnson  
15 become first assistant?

16 A I made the announcement in early September,  
17 but I don't remember exactly when. I think maybe the  
18 week of -- the end of the week of Labor Day,  
19 somewhere in there.

20 Q Now when you went in to see Mr. Jackson,  
21 had you just -- did you just say I want to come in  
22 and see you or did you set up an appointment in

1 advance, and say I want to see you in a few days or  
2 whatever?

3 A I just went in to see him but my visit with  
4 Mr. Jackson -- when I went to the office, I knew that  
5 there were several things I needed to do. There were  
6 several immediate decisions that had to be made, one  
7 of them was selecting the first assistant criminal  
8 chief, that's the same person in an office as small  
9 as that one, and I wanted to visit with people about  
10 that. I wanted to talk to people about reinstituting  
11 the civil/criminal divisions, and we had to visit  
12 about moving the office because that was immediately  
13 facing us. And I talked to each of the assistants in  
14 the office during the first two weeks I was there  
15 prior to making my decisions about a first  
16 assistant.

17 Q Now when you -- when did you talk to  
18 Mr. Jackson? Was it part of this process of talking  
19 to each of the assistants?

20 A Yes.

21 Q Did you bring up the Hale case with him?

22 A Sure. I asked each of the assistants to --

1 for some indication -- a visit with them about the  
2 kinds of cases that they were handling, the kinds of  
3 cases that they wanted to handle, that was part of,  
4 sort of surveying what was in the office in order to  
5 make a decision about the civil division/criminal  
6 division.

7 Q Did you have a discussion with Mr. Jackson  
8 about the Hale case in the latter part of August,  
9 during this meeting with him?

10 A I did.

11 Q And what was the discussion?

12 A I don't remember the exact discussion. I  
13 recall -- I don't remember everything that we  
14 discussed. I know that he told me that he had the  
15 case. That the case was ready to indict in  
16 September, the August grand jury had already taken  
17 place, the grand jury only meets once a month.

18 Q Did he tell you what the case was about?

19 A I'm sure that he did.

20 Q Did he mention any of the people who were  
21 involved in the case as potentially either targets,  
22 subjects or people who could be witnesses?

1 A He did.

2 Q Did he mention Governor Tucker?

3 A He did.

4 Q What was your reaction when he mentioned  
5 Governor Tucker?

6 A That if we were going to prosecute Governor  
7 Tucker, I would have to recuse from the case.

8 Q What did he say to you about Governor  
9 Tucker?

10 A I don't remember specifically what he told  
11 me about Tucker. What I remember is, he told me that  
12 the office had had a referral from the RTC a year  
13 earlier, that that matter was closed, but the David  
14 Hale case was reopening the doors or reopening those  
15 issues and leading back into those, and that Tucker  
16 was one of the people that he was going to be looking  
17 at.

18 Q I want to be clear about this. In your  
19 conversation in August with Mr. Jackson, he told you  
20 that there was an earlier referral which touched on  
21 Mr. Tucker?

22 A He -- I don't remember if he told me

1 specifically it touched on Mr. Tucker. I know that  
2 he told me specifically that it touched on Madison  
3 Guaranty.

4 Q Did you know what Madison Guaranty was?

5 A Vaguely.

6 Q How?

7 A Well, Little Rock is a small city. I knew  
8 that there had been Madison Guaranty, I knew that Jim  
9 McDougal had been tried and acquitted.

10 Q Did you know that Mr. McDougal was a  
11 business partner of then-Governor Clinton?

12 A No. No, I'm sorry, that's not true because  
13 in 1992 there were stories in The New York Times  
14 about that relationship.

15 Q So you were aware at least that there was a  
16 relationship between McDougal and then-Governor  
17 Clinton in something that had some relationship with  
18 Madison; correct?

19 A I knew that there had been stories in the  
20 media about that. That was all that I knew about  
21 that.

22 Q When Mr. Jackson -- when you had your

1 meeting with Mr. Jackson -- let me withdraw the  
2 question.

3 When you spoke to Mr. Pence about the Hale  
4 case, had he made any connection between the Hale  
5 case and Madison?

6 A No. No, he hadn't.

7 Q So it was Mr. Jackson who brought up the  
8 Madison matter?

9 A I'm confident that the first time I heard  
10 about Madison and the first time I heard about  
11 Governor Tucker in connection with the Hale matter  
12 was when I visited with Fletcher.

13 Q And Mr. Fletcher told you --

14 MR. FISHMAN: Mr. Jackson.

15 THE WITNESS: Mr. Jackson, Fletcher  
16 Jackson.

17 BY MR. CHERTOFF:

18 Q Mr. Jackson told you there had been an  
19 earlier referral regarding Madison?

20 A Yes.

21 Q That it was closed?

22 A Yes.



1 Q Did he tell you who closed it?

2 A No.

3 Q Did you ask him who closed it?

4 A No.

5 Q Did you ask him what the referral was  
6 about?

7 A I don't recall asking him that.

8 Q And then he told you that there was an --

9 Hale case which was ready for indictment which went  
10 back into some of the same issues?

11 A No, not that the Hale case went back into  
12 the same issue but as a result of the investigation  
13 that he had done in the Hale matter, that some of the  
14 issues that had been raised in that earlier referral  
15 would be examined again.

16 Q And did he say what issues in particular  
17 would be examined again?

18 A He may have but I don't recall that.

19 Q Did he say that, for example, issues  
20 involving Governor Tucker might be examined again?

21 A I know that he mentioned Governor Tucker's  
22 name. I don't recall that he gave me any details

1 about what that was about or what he expected. He  
2 told me that he had -- that he had expected referrals  
3 from the RTC in late July, and they had not come, and  
4 he was expecting them in late August, or he was  
5 expecting them by the end of August.

6 Q These were additional referrals beyond the  
7 first one?

8 A Yes.

9 Q Did he indicate to you these referrals  
10 involved Madison or expected to involve Madison?

11 A I don't recall that he told me that  
12 specifically. What he indicated to me was that  
13 the -- that the later -- that the referrals he was  
14 expecting sort of built on or continued the matters  
15 that had been included in the first referral.

16 Q So is it fair to say that in the course of  
17 this conversation, you learned from Mr. Jackson that  
18 there had been an earlier referral involving Madison  
19 which was closed, that there were additional  
20 referrals expected which would reopen or involve some  
21 of the issues in the earlier referral, and that there  
22 was also a case involving David Hale that would cause

1 Mr. Jackson to reexamine some of the issues raised in  
2 the first referral?

3 A I think that that's fair. I don't know --  
4 I don't recall exactly how he explained to me he was  
5 getting back into these issues involving Madison and  
6 Governor Tucker. But I know he told me that he was  
7 expecting more referrals and maybe as a result of the  
8 Hale investigation, that he was looking at those.

9 I think that was primarily based on the  
10 fact, though, that he expected these other referrals.

11 Q Did you have an understanding from this  
12 conversation with Mr. Jackson that there was some  
13 factual connection between the original referral, the  
14 expected new referrals and the Hale case?

15 MR. FISHMAN: The Hale case or the Hale  
16 investigation?

17 BY MR. CHERTOFF:

18 Q I mean you understood there was a  
19 prospective indictment against Hale; correct?

20 A Yes.

21 Q So Hale was a target?

22 A Yes. He was.

1 Q And did you therefore -- my question is,  
2 did you understand that there was some factual  
3 linkage based on what Mr. Jackson explained to you  
4 between the original Madison referral, the  
5 anticipated new referrals, and the Hale case?

6 A No.

7 Q He told you there was no -- I'm sorry?

8 A No, he didn't tell me that. But what I  
9 knew about the Hale case at the time, the Hale case  
10 that was scheduled for indictment in September was a  
11 separate matter. It involved a Small Business  
12 Development Corporation -- or Investment Corporation  
13 that David Hale ran. It did not involve Madison. It  
14 was -- my understanding was that was a separate --  
15 separate, factually a separate incident, but he was  
16 continuing an investigation.

17 Q Of David Hale?

18 A Of David Hale and other matters, yes.

19 Q And that was an outgrowth of the first Hale  
20 case?

21 A I don't know if it was an outgrowth of the  
22 first Hale case because I don't know what else he was

1 examining with David Hale.

2 Q So, I am going to make sure I have it now.  
3 So that you understood from your conversation with  
4 Mr. Jackson that he was going to continue  
5 investigating David Hale and others; correct?

6 A That's correct.

7 Q That that investigation might also have  
8 some connection with anticipated referrals from the  
9 RTC?

10 A Correct.

11 Q And that both of these anticipated  
12 investigations would have some factual connection  
13 with an earlier referral which had been closed?

14 A That's fair.

15 Q Why did you -- now -- withdrawn.

16 Do I recall correctly that you said you  
17 indicated to Mr. Jackson that if Governor Tucker  
18 became a subject of this investigation you would have  
19 to recuse yourself?

20 A I did.

21 Q What was the reason you felt that way?

22 A Because I had known Mr. Tucker for a long

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1 period of time. His wife is a friend of mine.

2 I was a lobbyist for the Arkansas Bar  
3 Association in 1993 when I returned to Little Rock.  
4 And he was the governor and I had come -- I had just  
5 resigned as the lobbyist for the Bar Association when  
6 I went to the U.S. Attorney's Office.

7 Q Just to take those things in turn. What is  
8 the relationship between your having been a lobbyist  
9 for the Arkansas Bar Association and Mr. Tucker  
10 having been the governor?

11 A I was lobbying the state bar, and I worked  
12 with him and with the people on the staff very  
13 closely during the legislature meets every two years  
14 they met in 1993, the early part of 1993.

15 Q So you were --

16 A I had done a lot of work with them.

17 Q You were lobbying the legislature on behalf  
18 of the bar?

19 A On behalf of the Bar Association, that's  
20 correct.

21 Q And doing that, you worked closely with  
22 Governor Tucker and his staff?

1 A With his staff.

2 Q You say you have been socially friendly  
3 with Governor Tucker's wife?

4 A Yes.

5 Q How far back does that go?

6 A When she was a law student at UAL Law, in  
7 the early '80s.

8 Q Did you or your husband have any other  
9 association with Governor Tucker?

10 A A long-time association.

11 Q Did your husband have a long-time  
12 association with Governor Tucker?

13 A He did.

14 Q What was the nature of that association?

15 A Political.

16 Q Can you elaborate?

17 A Well, Governor Tucker's mother was a very  
18 good friend of my husband's great aunt, so that  
19 association goes back for decades. Mr. Tucker was  
20 the prosecutor for the 6th Judicial District, he had  
21 been the Attorney General. My husband had worked in  
22 his campaigns, had donated money to him.

1 Q And is that through the campaign that led  
2 to his becoming governor after President Clinton left  
3 office?

4 A Did he donate money for that one?

5 Q Yes.

6 A I don't know.

7 Q Did your husband have any appointment or  
8 employment as a consequence of some action by  
9 Governor Tucker?

10 A No.

11 Q Where is your husband?

12 A My husband is the chief staff counsel for  
13 the Arkansas Public Service Commission.

14 Q And how long has he held that position?

15 A He has been there for 10 -- I don't know  
16 how long he has been the chief staff counsel but he  
17 has been an attorney with the Public Service  
18 Commission for 10 years.

19 Q Was he chief staff counsel when Bill  
20 Clinton was governor?

21 A He was.

22 Q Who appointed him to that?



1 A The chief -- the man who runs the Public  
2 Service Commission.

3 Q The chairman of the commission?

4 A Gerald Clark -- no, not the chairman. The  
5 chairman is a public -- the Public Service Commission  
6 is bifurcated and the commissioners and the staff are  
7 separate.

8 Q So who appointed your husband as chief  
9 counsel?

10 A Gerald Clark.

11 Q And who is Gerald Clark?

12 A He is -- I don't know his actual title but  
13 he is the man who runs the staff side of the Public  
14 Service Commission.

15 Q Is the position of chief counsel of the  
16 position considered a, quote, political appointment,  
17 as opposed to a civil service appointment?

18 A It is not a political appointment.

19 Q Other than that, was there any restriction  
20 on your husband working in Mr. -- or donating to  
21 Mr. Tucker's campaigns while he was at the Public  
22 Service Commission?

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1 A No.

2 Q Were either you or your husband socially  
3 friendly with the Tuckers in terms of seeing them  
4 socially?

5 A I've seen them at functions, not at private  
6 parties.

7 Q You considered yourself a friend of  
8 Mrs. Tucker then?

9 A I do.

10 Q Other than what you've described, did you  
11 have any other relationships or associations with the  
12 Tuckers? And when I say "you" I mean you or your  
13 husband?

14 A Not that I recall.

15 Q Any business ventures?

16 A No business ventures.

17 Q Any real estate relationships?

18 A No.

19 Q Do you rent -- have you ever rented  
20 property to the Tuckers or leased property from the  
21 Tuckers?

22 A No.

1 Q You told Mr. Jackson that you would recuse  
2 yourself if Mr. Tucker came up?

3 A That's correct.

4 MR. KRAVITZ: I'm sorry, what was the  
5 question, what was the question, if Mr. Tucker came  
6 up?

7 MR. CHERTOFF: If Mr. Tucker came up in the  
8 investigation.

9 MR. KRAVITZ: I thought she said earlier  
10 she told Mr. Jackson she would recuse if the office  
11 prosecuted Mr. Tucker.

12 BY MR. CHERTOFF:

13 Q What did you tell him?

14 A That I could not be involved in prosecuting  
15 Mr. Tucker but -- that means I would recuse from the  
16 investigation.

17 Q Did you tell anybody else that?

18 A Yes.

19 MR. FISHMAN: At that point or --

20 BY MR. CHERTOFF:

21 Q At that time, in August.

22 A I don't recall if I told anyone else that

1 in August, because I don't know that the issue ever  
2 came up again.

3 Q When you appointed a first assistant, did  
4 you discuss with the first assistant the fact that he  
5 might have to serve as acting U.S. Attorney if you  
6 recused yourself from cases?

7 A No.

8 Q Did you contact anybody -- again, this is  
9 still focusing your attention in August -- anybody in  
10 main Justice about the procedure to follow if you  
11 have to recuse yourself?

12 A No.

13 Q Did you get a package of briefing materials  
14 or an orientation manual when you became appointed  
15 U.S. Attorney?

16 A Yes.

17 Q When did you get that?

18 A I got some materials in June, in June of  
19 1993, I believe. I don't recall. I went to the  
20 Federal Practice Institute in September of 1993.

21 Q What was the Federal Practice Institute?

22 A Just a basic seminar for new people at the

1 department.

2 Q Did you go to an orientation course for new  
3 U.S. Attorneys?

4 A I did.

5 Q When was that?

6 A November of 1993.

7 Q Did you have a day where they brought you  
8 down to the Department of Justice in Washington and  
9 you met senior people?

10 A Yes.

11 Q When was that?

12 A November of 1993.

13 Q Now, after this conversation with  
14 Mr. Jackson about this case involving -- or these  
15 investigations involving Hale and possibly involving  
16 Governor Tucker, did you have any discussions with  
17 anybody then, still in August, in the office  
18 considering in general the handling of these  
19 investigations in this Hale case?

20 A I don't recall that I did.

21 Q Did you keep a list or a record of any kind  
22 within your office of the cases, within the office

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1 that you considered to be the significant major  
2 investigations?

3 A Did I or do I?

4 Q Did you in August of 1993?

5 A No, I did not.

6 Q Did you have a sense after you talked to  
7 Mr. Jackson that the case involving Judge Hale and  
8 the other investigations that were associated with it  
9 would be significant high-profile cases for your  
10 office?

11 A Did I have a sense that it would be a  
12 significant high-profile case?

13 Q Yes.

14 A I knew that it was a case that would  
15 attract media attention because David Hale was a  
16 municipal judge and the two co-defendants were  
17 practicing lawyers.

18 Q So, did you make any kind of an effort to  
19 follow the progress of the case after Mr. Jackson  
20 gave you this initial briefing?

21 A I don't recall that I made an effort to  
22 follow the progress of the case, but I -- I was aware

1 of what was developing with the case, I was aware  
2 that it was scheduled for indictment, during the  
3 September grand jury.

4 Q How did you keep yourself aware of the  
5 developments of the case?

6 A I don't recall that I was specifically ever  
7 briefed on any further development in the case. I  
8 don't know that there was any other development in  
9 the case. It may have been simply been ready for  
10 indictment. I just don't recall.

11 Q Did you ask in August of 1993 to meet with  
12 the agents from the FBI who were handling the case?

13 A Did I ask to meet with them?

14 Q Yes.

15 A I don't think so.

16 Q Did they ask you to meet with you in  
17 August?

18 A I met with the agents who were working on  
19 the case. I met with the agent who was the head of  
20 the 3 squad several times in August and September  
21 about a number of different matters and I am sure  
22 that we must have talked about that case as well.

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1 Q Who is that agent?

2 A Steve Irons.

3 Q And what was the 3 squad?

4 A White collar crime.

5 Q Do you recall in August of 1993 what Agent  
6 Irons told you about the Hale case and these other  
7 matters that Mr. Jackson had told you about?

8 A No.

9 Q Did Agent Irons indicate to you he  
10 understood that this was a very sensitive case, the  
11 Hale case?

12 A I don't remember.

13 Q Did Agent Irons tell that you they were --  
14 the FBI was working on its own case involving Madison  
15 Guaranty?

16 MR. FISHMAN: What do you mean, "its own  
17 case"?

18 BY MR. CHERTOFF:

19 Q A case apart from the RTC referrals.

20 A I don't remember that.

21 Q Did Agent Irons indicate to you anything  
22 about hearing that an attorney for David Hale had



1 gone to Washington to try to get the case handed out  
2 of Washington as of August of 1993?

3 A I don't recall that.

4 Q Now, in August, again, I want to focus you  
5 before Labor Day. Before Labor Day 1993, had you  
6 heard that there were any allegations that David Hale  
7 had made with respect to the President and  
8 Mrs. Clinton, or Mrs. Clinton?

9 A I don't remember that.

10 Q Had you specifically been told that David  
11 Hale had made any allegations regarding Governor  
12 Tucker?

13 A No, I had not.

14 Q Did you have a conversation -- I withdraw  
15 the question.

16 When is the next conversation or  
17 communication you recall with respect to either the  
18 Hale matter or the Madison matter after this Fletcher  
19 Jackson meeting you've described in late August?

20 A With David Hale or the --

21 Q Not a -- a communication about the David  
22 Hale case or any of the matters that Fletcher Jackson

1 told you about.

2 MR. KRAVITZ: You mean in addition to the  
3 conversation she testified to about with Mr. Irons?

4 BY MR. CHERTOFF:

5 Q Was the conversation with Mr. Irons before  
6 or after your conversation with Fletcher Jackson?

7 A I don't remember.

8 Q Apart from the conversation with Agent  
9 Irons in August that you described --

10 A I'm sorry. I don't know that I had a  
11 conversation with him specifically in August.

12 I know that during the approximately six  
13 weeks, the first six weeks I was in office, Agent  
14 Irons and I visited on a number of occasions, I don't  
15 remember specific dates, specific conversations,  
16 specific subjects.

17 Q After you had your conversation with  
18 Mr. Jackson in the latter part of August about the  
19 Hale case and these other investigations, what is the  
20 next conversation regarding these subjects that you  
21 specifically recall having had?

22 A I had a conversation with Randy Coleman, I

1 believe on the Tuesday following Labor Day.

2 Q How did that come about?

3 A Randy Coleman called and asked -- called, I  
4 think the week before, and asked to set up an  
5 appointment to come to my office and talk to me.

6 Q Did he say what about?

7 A About David Hale.

8 Q And did you arrange a meeting with him?

9 A I did.

10 Q Who was present?

11 A Randy Coleman and me.

12 Q Did you have -- had you appointed a first  
13 assistant by that time?

14 A No, I had not.

15 Q Did you bring Mr. Jackson in?

16 A No. I did not.

17 Q Why not?

18 A I asked Fletcher if he wanted to be there.  
19 My recollection is Fletcher and I talked about him  
20 being there, he didn't particularly want to be  
21 there. Fletcher can be an extremely difficult person  
22 to talk with and to deal with, and I had decided that

1 I would just call him at the -- I probably would have  
2 called him during that meeting if the meeting had  
3 involved anything of substance. As it turned out, it  
4 did not. So I never called him and asked him to come  
5 in.

6 Q Did you ask him to come and Mr. Jackson --  
7 Mr. Jackson to come in and he declined?

8 A I talked to Mr. Jackson -- I know I talked  
9 to him about the fact that Randy was coming to my  
10 office, because I felt that it was bad form for me to  
11 be, having been there just a couple of weeks, for me  
12 to be having a meeting with the defense attorney on a  
13 case that was ready for indictment without having the  
14 assistant who was handling it there.

15 Q What did Mr. Jackson say?

16 A I don't remember.

17 Q Did he object to Mr. -- you having a  
18 meeting with Mr. Coleman?

19 A No.

20 Q Did he say it is too late?

21 A No. I don't remember what he said.

22 Q Did he tell you that he had had discussions

1 with Mr. Coleman?

2 MR. FISHMAN: At all you mean?

3 BY MR. CHERTOFF:

4 Q About this Hale case.

5 A He may have.

6 Q Did you ask him what the discussions were?

7 A I don't remember that he specifically  
8 talked with me about any -- about the substance of  
9 any discussions that he had had. I just don't  
10 remember.

11 Q How did you prepare yourself for the  
12 meeting with Coleman?

13 A How did I prepare myself?

14 Q Yes.

15 A I didn't prepare myself. Randy Coleman  
16 said he wanted to come and talk with me about  
17 something. I made myself available for him to come  
18 and talk. There was nothing to prepare.

19 MR. CHERTOFF: I think now may be -- I said  
20 earlier we would want to take a lunch break. Maybe  
21 we can take it now -- I have to take a call -- and  
22 resume at 1:00. Okay?

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1 MR. FISHMAN: And then we are on from 1:00  
2 to 2:00.

3 MR. CHERTOFF: Off the record.

4 (Discussion off the record.)

5 (Whereupon, at 12:00 p.m., the deposition  
6 was recessed, to be reconvened at 1:00 p.m. this same  
7 day.)  
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1 AFTERNOON SESSION (1:09 p.m.)

2 Whereupon,

3 PAULA CASEY

4 resumed the stand and, having been previously duly  
5 sworn, was examined and testified further as follows:

6 MR. CHERTOFF: Back on the record.

7 EXAMINATION (Continued)

8 BY MR. CHERTOFF:

9 Q Ms. Casey, so we had your attention focused  
10 on the meeting that Mr. Coleman asked to have with  
11 you the Tuesday after Labor Day. In your  
12 conversation with Mr. Jackson before the meeting,  
13 just to pick up the thread, did you ask him about  
14 whether he had any idea what Mr. Coleman was going to  
15 want to talk about?

16 A I don't remember specifically what Fletcher  
17 and I discussed. I know that I talked to him about  
18 the fact that Randy wanted to come over and meet me  
19 and I know that I asked him if he wanted to be  
20 there. I know that. But I just don't recall the  
21 specific conversation.

22 Q Did you ask Mr. Jackson whether there had

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1 been prior discussions before a disposition?

2 A I may have. I don't recall specifically.

3 Q Did you ask him whether Mr. -- did you ask  
4 Mr. Jackson whether Mr. Hale had ever suggested  
5 possible individuals that -- let me withdraw the  
6 question.

7 Did you ask Mr. Jackson whether Mr. Coleman  
8 had ever suggested the names of people that Mr. Hale  
9 might be able to cooperate against?

10 A Did I ask him that?

11 Q Yes.

12 A No. But Fletcher also didn't tell me that  
13 and I don't believe that that ever happened.

14 Q You don't believe what ever happened?

15 A I don't believe that Randy Coleman ever  
16 told Fletcher what you are asking about.

17 Q Is that because Mr. Jackson told you in  
18 this conversation that Mr. Coleman hadn't named any  
19 people that could be potential subjects of Mr. Hale's  
20 cooperation?

21 A I don't remember the specific conversation  
22 that I had with Fletcher. But I think that had that



1 occurred, Fletcher would have volunteered that.

2 Q So you are speculating that it didn't  
3 happen based on the fact that your recollection is  
4 Mr. Jackson didn't volunteer it?

5 A I am telling you I had a conversation with  
6 Fletcher. I know that I told him that Randy Coleman  
7 was coming over and wanted to meet and that I was  
8 going to give him the courtesy of a meeting. And I  
9 asked Fletcher if he wanted to be included. He did  
10 not.

11 Q That was the whole discussion?

12 A That's what I remember. If there was more  
13 discussion, I don't recall it now. It is 2-1/2 years  
14 ago.

15 Q Without getting into the specifics, it  
16 would be fair to say you have probably ruminated  
17 about this conversation many times in the last 2-1/2  
18 years; right?

19 A That conversation?

20 Q Yes.

21 A No, sir, I have not.

22 Q Is it fair to say you have ruminated about

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1 the whole issue of handling of David Hale's case?

2 MR. BEN-VENISTE: Object to the form of the  
3 question, "ruminated."

4 BY MR. CHERTOFF:

5 Q Thought, would you say?

6 A It would be fair to say my life has been  
7 made fairly miserable about the whole issue. I have  
8 not ruminated.

9 Q That is not the question I asked. Have you  
10 had occasion over the last 2-1/2 years to think back  
11 over the events of the summer and fall of 1993 as  
12 they related to the David Hale case?

13 A I have.

14 Q And with the benefit of that thinking, is  
15 your recollection about your conversation with  
16 Mr. Jackson still that you don't remember him having  
17 any substantive conversation with you about what  
18 Mr. Coleman might be looking for, what he might be  
19 prepared to offer?

20 MR. BEN-VENISTE: I have an objection that  
21 that's argumentative.

22 BY MR. CHERTOFF:

1 Q You can answer the question.

2 A My recollection is Randy Coleman called and  
3 asked for a meeting. I gave him the courtesy of a  
4 meeting. I asked Fletcher if he wanted to be there,  
5 because I didn't want to leave Fletcher with the  
6 impression that I was trying to intrude into a matter  
7 that was his responsibility. He did not want to be  
8 included in the meeting.

9 Q Did he tell you why?

10 A I don't recall. That's what I recall.  
11 That's all I recall about the conversation.

12 Q Now --

13 A I know it occurred. I know I told him that  
14 Randy Coleman was coming over.

15 Q When you met with Mr. Coleman, how long was  
16 the meeting?

17 A About five minutes.

18 Q Did you know Mr. Coleman before the  
19 meeting?

20 A Mr. Coleman was my neighbor. I am not sure  
21 he was still my neighbor at that point in time but he  
22 had been my neighbor, lived a few doors down from me.

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1 Q Did you know him from Bar Association  
2 activities?

3 A Not really. I just knew he was my  
4 neighbor.

5 Q What did Mr. Coleman come in and say?

6 A Mr. Coleman didn't say much when he came  
7 in. Mr. Coleman injured himself playing golf, I  
8 think he told me the day before, he injured his back,  
9 he couldn't move his neck. I told him it would have  
10 been fine to cancel but he said he actually wanted to  
11 come in to see me.

12 He told me that his -- he wanted immunity  
13 or a misdemeanor for his client. I told him that I  
14 didn't think that was a possibility. He told me one  
15 felony would be as bad as 12 for his client because  
16 his client was a municipal judge and would lose his  
17 license to practice law. Left to go to the doctor.

18 Q That was it?

19 A That's pretty much it, it was a very short  
20 meeting.

21 Q Your testimony is he didn't have any  
22 discussion with you about anything David Hale would

1 be prepared to do in return for getting a plea to a  
2 misdemeanor or immunity?

3 A He never proffered any of that information,  
4 never mentioned a name to me, never mentioned an  
5 incident and throughout the entire time that that  
6 case remained in my office, he refused to make his  
7 client available to make a proffer to an agent.

8 Q Let me -- let's not jump ahead. Let me  
9 just keep our attention focused on this meeting on  
10 the Tuesday after Labor Day. He came in and asked  
11 for immunity?

12 A He did.

13 Q And that would be immunity in return for  
14 testimony?

15 A Immunity in return for the information that  
16 he could give, for cooperation.

17 Q So Mr. Coleman did indicate that there was  
18 some cooperation or information that Mr. Hale was  
19 offering?

20 A He did. What he told me was that his  
21 client -- I don't remember exactly how he said this,  
22 but something like he wouldn't be surprised if I

1 wouldn't want -- if I didn't want to deal with it  
2 because he could give me people who were bigger than  
3 I would want to prosecute or too big for me to  
4 prosecute or something -- I don't remember the exact  
5 language but something like that.

6 Q That came up in that first meeting you had  
7 with Mr. Coleman right after Labor Day?

8 A It did.

9 Q So he indicated to you that his client  
10 would be prepared to give information on people that  
11 in some way he characterized would be important  
12 people?

13 A That's correct.

14 Q And he suggested that perhaps it would be a  
15 case you wouldn't want to get involved in personally?

16 A It was more a matter of people who were too  
17 big for me to prosecute, people -- I guess that may  
18 be a fair characterization. I don't remember exactly  
19 how he said it.

20 Q Well, did he ask you to get him in touch  
21 with someone at main Justice who would be big enough  
22 to prosecute these big people?

1 A I don't recall that he ever asked me to put  
2 him in touch with anyone at main Justice.

3 Q I am trying to understand the  
4 conversation. Mr. Coleman comes in and he tells you  
5 he would like either immunity or some kind of  
6 misdemeanor plea for his client; correct?

7 A Correct.

8 Q And what he is offering in return for that  
9 is some kind of cooperation; is that correct?

10 A Correct.

11 Q But he also tells you the people that Hale  
12 will cooperate against are in some sense too big for  
13 you to prosecute; right?

14 A That's correct.

15 Q So your response to Mr. Coleman is what?

16 A My response is that based on what I knew  
17 about the case, that his client was looking at a  
18 felony. Not at immunity and not at a misdemeanor,  
19 and that he was going to have to proffer his  
20 testimony to an agent for evaluation.

21 Q Did you ask Mr. Coleman to give you some  
22 idea of the people that Mr. Hale would be able to

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1 cooperate against?

2 A No.

3 Q When Mr. Coleman said to you, these are  
4 people that are in substance too big for you to  
5 prosecute, didn't it pique your interest?

6 A It may have piqued my interest but my  
7 understanding of the way the process works is that  
8 his client should proffer his testimony to an agent  
9 for evaluation.

10 I wasn't an agent; I didn't ask him for  
11 details. If he had something to offer that needed to  
12 be evaluated, that was the procedure for doing it.

13 Q Your understanding that there is a set  
14 procedure that if someone wants to discuss or enter  
15 into plea discussions, that it begins with a proffer  
16 that has to be given to an agent?

17 A I thought that that was the appropriate way  
18 to get the information from him for evaluation.

19 Q Did you believe there was some procedure  
20 that prevented you from asking Mr. Coleman who are we  
21 talking about cooperating against?

22 A No, there is no procedure that would have



1 prevented me from doing that but I am sitting there  
2 in Little Rock, Arkansas with a man who has just been  
3 elected President, and -- I mean I know who the  
4 President is, I know who the governor is, I know who  
5 political people are. It wouldn't have mattered  
6 whose name he gave me, the information still had to  
7 be evaluated.

8 Q When you're sitting there right after Labor  
9 Day in early September and you are getting this  
10 statement from Mr. Coleman about these big people,  
11 why were you -- why did you think about the  
12 President?

13 A Because -- because of the things that we  
14 talked about earlier in this deposition.

15 Q The President had come up in association  
16 with this case in your mind?

17 A No, but I knew that there had been a  
18 referral the year before, those things were reported  
19 in the media during the 1992 campaign.

20 Q So in your mind, when Mr. Coleman was in  
21 there talking about what Mr. Hale might do, and based  
22 upon your previous discussion with Fletcher Jackson

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1 and your knowledge of the press stories the previous  
2 year, is it your testimony that in your mind you  
3 understood that the big people might include the  
4 President or Governor Tucker?

5 A No, Mr. Chertoff, I think that you are  
6 really twisting this. I didn't ask him about those  
7 things during that conversation. I am sure of that  
8 because Randy -- I know that Randy Coleman never  
9 mentioned anyone's name to me. Ever.

10 Q I am asking -- I am not asking you -- I am  
11 asking you a different question. A moment ago you  
12 testified here that in your -- in thinking through  
13 how you were going to respond to Mr. Coleman, you  
14 said -- it is in the record, in substance, I am not  
15 quoting -- you are aware the President is in  
16 Washington and who Governor Tucker is, and my  
17 question is when Mr. Coleman mentioned big people, in  
18 your mind, did you make the association with Bill  
19 Clinton and Jim Guy Tucker?

20 MR. KRAVITZ: Mike, I have to say I have  
21 listened to the testimony, too, and I don't think the  
22 record is at all clear that Ms. Casey said that when

1 she was talking to Mr. Coleman -- let me finish my  
2 objection. That when she was talking to Mr. Coleman,  
3 in -- just after Labor Day in 1993, that at that time  
4 she was thinking in her mind that she knew who the  
5 President was and that she knew who the governor  
6 was. I don't think that it establishes that.

7 MR. CHERTOFF: The record will say what it  
8 says.

9 BY MR. CHERTOFF:

10 Q My question to you, in your mind, right  
11 after Labor Day when Mr. Coleman mentioned big  
12 people, did you make the association with the  
13 President and with Governor Tucker?

14 A No. Specifically -- I don't remember  
15 specifically doing that. I am just saying, he is  
16 talking about big people, to me those are big  
17 people. It didn't make any difference. I didn't ask  
18 him for specific names.

19 Q But my original question to you, Ms. Casey,  
20 was when he mentions big people, did you ask him,  
21 give me an example what kinds of people are we  
22 talking about here that are too big for me to

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1 prosecute?

2 A No, Mr. Chertoff. I answered that question  
3 about six times. I didn't ask him and he never  
4 mentioned a name.

5 Q Why didn't you ask him?

6 A The man is in my office. He is in pain.  
7 We had a very short conversation. If his client had  
8 information to proffer, I was willing to make  
9 arrangements for him to do that.

10 Q Were you curious about who the big people  
11 were?

12 A Not particularly.

13 Q After Mr. Coleman left, did you go to  
14 Mr. Jackson?

15 A At some point, I related that -- the  
16 meeting, the contents of the meeting to Fletcher.

17 Q That day?

18 A I don't recall whether it was that day.

19 Q When Mr. Coleman left, did you say to  
20 yourself, this seems like a -- something that's  
21 important?

22 A Did I say to myself?

1 Q Did you think to yourself this is something  
2 that's important?

3 MR. KRAVITZ: What's "this"?

4 BY MR. CHERTOFF:

5 Q What Mr. Coleman has come in to tell me  
6 about that there are big people his client can  
7 cooperate against.

8 A I don't recall specifically what I thought  
9 when he left.

10 I will tell you, I can tell you that during  
11 that period of time, and subsequently, what I have  
12 thought was that if David Hale and Randy Coleman had  
13 specific information of any substance that would have  
14 been useful to Mr. Hale in a cooperation agreement,  
15 that they would have made arrangements to proffer  
16 that information.

17 Q But on Tuesday after Labor Day when  
18 Mr. Coleman talked about big people your testimony is  
19 you didn't ask him anything about who those big  
20 people were; correct?

21 A That's correct, been objected to as  
22 repetitive and now argumentative.

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1 Q And after Mr. Coleman left, you didn't go  
2 right to Mr. Jackson and say, in substance,  
3 Mr. Coleman has told me that Mr. Hale has big people  
4 who he can cooperate against, do you know who those  
5 might be?

6 A I don't recall whether I spoke with  
7 Fletcher about it on that same day. I did talk with  
8 Fletcher about the meeting with David Hale and what  
9 David Hale -- I'm sorry, with Randy Coleman and  
10 talked with him about what Randy Coleman wanted. I  
11 related that to him because Fletcher was handling the  
12 matter and it was his responsibility.

13 Q When you related it to Mr. Jackson, was  
14 that in his office?

15 A It was in the U.S. Attorney's Office. I  
16 don't recall exactly where in the U.S. Attorney's  
17 office.

18 Q What did you tell Mr. Jackson?

19 A I told him what had happened at the  
20 meeting.

21 Q Did you tell him about the comment  
22 Mr. Coleman made concerning big people?

1       A    I told him about the meeting. I am sure I  
2 must have related that, too, but I don't recall  
3 specifically.

4       Q    Now at that point you knew from Mr. Jackson  
5 that at least Governor Tucker's name had come up in  
6 the context of this Hale matter; correct?

7       A    I knew that from Fletcher.

8       Q    You knew that before Mr. Coleman came in?

9       A    That's right.

10      Q    When you went back to Fletcher Jackson  
11 after Mr. Coleman came in around Labor Day, did you  
12 suggest to -- did you have any discussion with  
13 Mr. Jackson about whether Governor Tucker was one of  
14 the big people that Mr. Hale might cooperate against?

15      A    Did I ask Fletcher about that?

16      Q    Yes, did you say, in substance, Fletcher,  
17 Coleman has come in saying Hale can cooperate against  
18 big people, you think he is talking about Tucker?

19      A    No, I did not ask him that.

20      Q    Did you have any discussion with Jackson,  
21 after the meeting with Coleman where the, quote, "big  
22 people" came up, in which you and Fletcher Jackson

1 discussed who might be the big people that Hale could  
2 be cooperating against?

3       A    I don't recall having a meeting just with  
4 Fletcher and me. There were meetings after my  
5 meeting with Randy Coleman. There was a meeting in  
6 late September with people from the FBI where that  
7 was discussed.

8       Q    But I am still focused on this meeting that  
9 you've indicated you had shortly after the Coleman  
10 meeting, where you told Fletcher Jackson what Coleman  
11 had said.

12       That's what I want to keep focused on now  
13 for the moment. In that meeting, when you reported  
14 your conversation with Coleman to Mr. Jackson, did  
15 you tell Mr. Jackson or did you discuss with  
16 Mr. Jackson, whether one of the big people Hale was  
17 mentioning cooperating against was Jim Guy Tucker?

18      A    No. I don't recall that. But I don't  
19 recall the specific conversation. I know that I told  
20 Fletcher about the meeting with Randy Coleman.

21      Q    So, did you and Mr. Jackson discuss what  
22 you would do to pursue this matter?



1 A Did we discuss what we would do to pursue  
2 what matter?

3 Q The Hale matter and this issue about Hale  
4 having big people to cooperate against.

5 A Fletcher Jackson was pursuing that  
6 investigation. I expected Fletcher to pursue it in  
7 the normal course of business.

8 Q But when you went in to tell Mr. Jackson  
9 about the meeting you had with Coleman where Coleman  
10 talked about big people, you had a conversation with  
11 Mr. Jackson, right?

12 A I had a conversation with Mr. Jackson, and  
13 related to him the contents of the meeting with Randy  
14 Coleman. I don't remember specifically what was  
15 said. I don't remember specifically where it  
16 occurred. I may have run into him in the hallway; I  
17 may have spoken to him on the telephone. You can ask  
18 me about this for the rest of the day but I told you  
19 everything I remember about it.

20 Q In this conversation, did you and  
21 Mr. Jackson discuss what further steps should be  
22 taken to pursue whether Hale had any cooperation of

1 value to give?

2 A I expected -- no, I did not. I expected  
3 Fletcher Jackson to pursue that investigation in the  
4 normal course of business. I was a new United States  
5 Attorney. There were a lot of defense attorneys who  
6 wanted to take advantage of a change in the U.S.  
7 Attorney's Office to gain an advantage for their  
8 client. And I was determined that that was not going  
9 to happen. And I left -- I did not reassign cases  
10 when I came in. I left investigations and cases with  
11 the people who were assigned to them when I got  
12 there.

13 And I expected them to continue to pursue  
14 them. That's what I expected Fletcher to do. It was  
15 his case.

16 Q So you reported the information to Fletcher  
17 Jackson but you had -- but your recollection is at  
18 that time you had no discussion with him about what  
19 steps ought to be taken to see if this cooperation  
20 could be pursued; right?

21 A Ask the question again.

22 MR. CHERTOFF: Can I get it read back.

1 (The reporter read the record as requested.)

2 THE WITNESS: I don't remember specifically  
3 having a conversation about that. I can tell you  
4 generally what was going on, but not the specific  
5 conversations. I know that generally the  
6 understanding was that David Hale did not want to  
7 plead to a felony and that David Hale was unwilling  
8 to actually proffer his testimony.

9 BY MR. CHERTOFF:

10 Q When you say "generally," is this referring  
11 to generally in this conversation you had with  
12 Jackson in early September?

13 A I am talking about generally. That's what  
14 was going on. The conversations with Randy Hale, the  
15 correspondence that took place during that period of  
16 time, that's what was going on.

17 MR. BEN-VENISTE: I think you said Randy  
18 Hale.

19 THE WITNESS: I'm sorry. I meant Randy  
20 Coleman. Thank you.

21 BY MR. CHERTOFF:

22 Q When did you first see a copy of the

1 initial referral sent by the RTC to the Department of  
2 Justice regarding Madison Guaranty?

3 A Sometime in late August of 1993.

4 Q How did you come to see it?

5 A It was on my desk.

6 Q How did it get there?

7 A I am not certain.

8 Q You walked in one day, it was laying there?

9 A I walked in one day and it was on my desk,  
10 with a number of other matters that were there to be  
11 reviewed. In retrospect I suspect, and I am  
12 speculating now, that I may have said something to  
13 Richard Pence after meeting with Fletcher Jackson  
14 initially, or Fletcher may have said something to  
15 Richard Pence, I am not certain. I never went back  
16 and questioned anybody. I looked at it, gave it to  
17 my secretary and she put it back in the vault where  
18 it came from.

19 Q After you looked at it, what did you do?

20 A I didn't do anything.

21 Q Your understanding in late August from  
22 Mr. Jackson was that this referral was closed?

- 1 A Yes.
- 2 Q Why did you look at a closed referral?
- 3 A It was on my desk.
- 4 Q Did you read it?
- 5 A I glanced at it.
- 6 Q Did you ask your Secretary why is a closed  
7 referral on my desk?
- 8 A No.
- 9 Q Did you notice that it -- the mentions in  
10 the referral of Governor Tucker?
- 11 A I don't recall that now but I may have --  
12 I'm sure that I noticed it at the time.
- 13 Q Did you notice the mentions of  
14 Mr. McDougal?
- 15 A Did I notice it?
- 16 Q Yes.
- 17 A I looked at the referral at the time. I  
18 don't remember now -- I don't remember what I noticed  
19 at the time.
- 20 Q Did you notice the mention of the Clintons?
- 21 A Mr. Chertoff, we can go through it page by  
22 page. I have answered the question.
- 

- 1 Q Not every page but I want to ask you about  
2 the Clintons, did you notice the Clintons were  
3 mentioned in the referral?
- 4 A I looked at the referral at the time. If  
5 they were there, I am sure I noticed it.
- 6 Q Did that cause a reaction in you?
- 7 A Not -- no, not really because that had been  
8 reported in the media the year before. I knew that  
9 was, the referral, that was the subject of those  
10 stories, it was the same day.
- 11 Q What referral was reported in the media the  
12 year before?
- 13 A There were stories about Whitewater and  
14 the -- and Madison or something that had been  
15 reported during the '92 campaign.
- 16 Q There was a story about a criminal referral  
17 in the '92 campaign?
- 18 A I don't know if it was about the criminal  
19 referral but it was the same matter or that was my  
20 recollection.
- 21 Q You were aware in the '92 campaign the  
22 issue of Whitewater and the President had come up in

1 the campaign; right?

2 A That's my recollection.

3 Q And when you saw that there was actually a  
4 criminal referral mentioning Whitewater and  
5 mentioning the Clintons, did that catch your  
6 attention?

7 A I'm sure it did. I mean I looked at the  
8 referral. It was on my desk.

9 Q And what was your reaction when you saw  
10 that there was a criminal referral that mentioned  
11 Whitewater and the Clintons, and that was a subject  
12 that had come up in the campaign the year before;  
13 what was your reaction?

14 A I don't recall that I had a reaction.

15 Q Did you call Mr. Jackson?

16 A No.

17 Q Did you ask somebody what -- what this is,  
18 why this is on your desk?

19 A No. You have to understand, I came to the  
20 U.S. Attorney's Office. There hadn't been a U.S.  
21 Attorney there, there had been an acting U.S.  
22 Attorney since the beginning of March. There were

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1 all kinds of things on my desk.

2 Q Were there other things involving the  
3 President of the United States on your desk?

4 MR. BEN-VENISTE: Do you really mean to ask  
5 that question?

6 BY MR. CHERTOFF:

7 Q Were there other things of a magnitude,  
8 involving defendants or witnesses or individuals  
9 being mentioned that were comparable to the President  
10 and the governor on your desk?

11 MR. BEN-VENISTE: I object to the form of  
12 the question. I think we are talking about a  
13 document dated sometime in 1992 that is being  
14 reviewed now in 1993 by this witness.

15 MR. CHERTOFF: That's correct. Is that an  
16 objection or observation?

17 MR. BEN-VENISTE: That is observation and a  
18 general objection to the argumentative tone of your  
19 voice.

20 BY MR. CHERTOFF:

21 Q You can answer the question.

22 A I'm sorry, I have forgotten what the



1 question is.

2 MR. CHERTOFF: Get it read back.

3 (The reporter read the record as requested.)

4 THE WITNESS: I think the simple answer is  
5 no, but you have to understand that that was a --  
6 that referral was there. I assumed that Richard or  
7 someone had caused it to be placed on my desk so that  
8 I would know what it was about.

9 But my understanding was that it was  
10 closed, that the matter had been reviewed and it was  
11 over. So it didn't strike me as being very  
12 important.

13 BY MR. CHERTOFF:

14 Q Now, did this -- you indicated this  
15 referral was on your desk in late August, did this  
16 come to mind when you had your meeting with  
17 Mr. Coleman right after Labor Day?

18 A I don't remember specifically that it did.

19 Q Did you have a meeting with Mr. Irons in  
20 mid-September concerning the Hale matter?

21 A Mid-September?

22 Q Yes. Around September 13th.

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1 A I had a number of meetings with Mr. Irons  
2 because he was the head of the 3 squad and we visited  
3 on a number of occasions about a number of different  
4 things. So we may have, I don't recall specifically  
5 a meeting on September the 13th, however.

6 Q Let me show you, to refresh your  
7 recollection, what's been produced to us with Bates  
8 number for identification 6772, and let me ask you,  
9 is that a portion of your calendar?

10 A No. Wait a minute, it is my writing at the  
11 top. I -- that's my -- the September '93 note at the  
12 top is my writing.

13 Q Is your calendar?

14 A I am trying to tell you the answer to this  
15 question. I'm sure it must be.

16 Q Is your secretary's handwriting on this?

17 A I think that is my secretary's handwriting.

18 Q Who is Don Whitehead?

19 A Don Whitehead was the assistant special  
20 agent in charge of the FBI at the time, Arkansas.

21 Q Was he above Mr. Irons?

22 A He was.

1 Q Was there a special agent in charge?  
2 A Yes.  
3 Q So Mr. Whitehead was number two?  
4 A Yes.  
5 Q Was this a meeting about David Hale?  
6 A No. I can tell you from looking at the  
7 calendar what this meeting was about.  
8 Q What was it about?  
9 A David Hale may have been discussed.  
10 Q I don't care about other cases.  
11 A It was about Medicaid fraud.  
12 Q What was the discussion of David Hale at  
13 the meeting?  
14 A I don't know that there was a discussion  
15 about David Hale at the meeting. I can tell you it  
16 was about Medicaid fraud. I can tell by 2:00 meeting  
17 with Marie Miller, at the Arkansas Attorney General's  
18 office. She was the head of the Medicaid fraud unit  
19 at the time, and Debbie N-y-e, general counsel for  
20 the Arkansas Department of Human Services. I had a  
21 meeting to discuss Medicaid fraud and the  
22 relationship between the U.S. Attorney's Office and

1 Medicaid fraud unit.  
2 Q In the conversation --  
3 A And Steven Irons and Don Whitehead called,  
4 or one of them called and wanted to meet with me  
5 before I met with Marie and Debbie.  
6 Q In the conversation, did Mr. Irons or  
7 Mr. Whitehead talk to you about David Hale matter?  
8 A I don't recall that they talked to me about  
9 David Hale.  
10 Q During the first couple of weeks of  
11 September, did you have phone conversations with  
12 Mr. Coleman about David Hale?  
13 A I think that Randy and I did talk on the  
14 telephone but I don't remember specifically when.  
15 And I don't remember the specific conversations.  
16 Q Did he call you up?  
17 A I don't recall that I ever -- I don't  
18 recall that I ever called him so he must have called  
19 me but I am not positive about that.  
20 Q In these conversations, did you ask him to  
21 describe to you the people that Mr. Hale would be  
22 cooperating against, or offered to cooperate against?

1 A No, I did not.

2 Q Did you have conversations during these --  
3 during this two-week period after Labor Day with  
4 anybody from the FBI concerning David Hale and his  
5 potential cooperation?

6 A I may have.

7 Q Do you remember who?

8 A I feel certain that at some point I would  
9 have related to Steve Irons the meeting that Randy  
10 Coleman and I had.

11 Q The meeting you had --

12 A I don't remember specifically doing that.

13 Q Did you have discussions with anybody in  
14 your office or in the FBI during this two-week period  
15 about what was going on with Madison Guaranty in  
16 terms of any investigative activity?

17 A With anybody in my office?

18 Q Or in the FBI.

19 A At some point in early September, Michael  
20 Johnson became my first assistant and I discussed  
21 this matter with him. And I know specifically that  
22 when I got the first letter from Randy Coleman, that

1 I discussed that letter and the response that I wrote  
2 to that letter with Michael Johnson.

3 Q Before you got the first letter from Randy  
4 Coleman, had you told Michael Johnson about the  
5 conversation that you had with Mr. Coleman right  
6 after Labor Day?

7 A I don't remember if I told him about it  
8 before I got that letter, but I am sure at some point  
9 I told him about it.

10 Q When you made Mr. Johnson your first  
11 assistant, did you sit down with him and review  
12 office priorities?

13 A Office priorities?

14 Q Yes, what the priorities in the office were  
15 going to be.

16 A We didn't have a lot of time to sit down  
17 and talk about it. We were in the midst of moving to  
18 private office space. The office actually moved  
19 October 1, and I had my hands full with that. That  
20 was the number one priority at the time because we  
21 had to be out of there.

22 I also discussed with Michael the fact that

1 I wanted a comprehensive inventory of the cases that  
2 were in the office and that I wanted to develop a  
3 system for ranking those cases or rating those cases  
4 when they came in, so that we could tell apples from  
5 oranges, so that we could compare the documents among  
6 the various assistants and tell what people had.

7 Q So before you got your first letter from  
8 Mr. Coleman in mid-September, hadn't you and  
9 Mr. Johnson had any discussion about David Hale, his  
10 case, or any cooperation he was proposing to give?

11 A I don't remember specifically if we had  
12 talked about it before that letter came in. I don't  
13 remember when the letter came, for one thing.

14 Q When you had phone conversations with  
15 Mr. Coleman before the letter came in, did you reach  
16 out for Mr. Jackson to inform her about the  
17 conversations?

18 A I am sure that I did. I don't remember  
19 specifically doing that but I felt it was very  
20 important that assistants not get the impression that  
21 I was -- that I was coming in to change things, to  
22 remove them from investigations. I wanted the office

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1 to continue to run in the normal course of business.

2 Q Now, I am going to show you what has been  
3 marked with Bates numbers 7640 for identification.  
4 Do you recognize that letter?

5 A Yes.

6 Q Was this the first letter you got from  
7 Mr. Coleman regarding David Hale?

8 A I believe that it is.

9 Q And -- I want to take a moment to read the  
10 letter.

11 A I have read it before. Go ahead.

12 Q Was it your understanding that Mr. Jackson  
13 had in fact planned on indicting Mr. Hale in the  
14 third week of -- in or around the third week of  
15 September 1993?

16 A Yes, it was.

17 Q Did you have a practice in your office of  
18 having prosecution memos done?

19 A That practice was not there when I came, I  
20 don't believe.

21 Q Did you review indictments before they were  
22 issued?



1 A Yes.

2 Q Did you sign indictments personally?

3 A No.

4 Q Who signed indictments?

5 A The assistant who is handling the case did  
6 and does.

7 Q And did you review the indictment of David  
8 Hale?

9 A I'm sure that I saw the indictment of David  
10 Hale.

11 Q Do you remember when that was?

12 A We have a grand jury planning meeting on  
13 the Thursday morning before the grand jury convenes  
14 the following Tuesday.

15 Q And in that meeting, was it the custom and  
16 practice to show draft indictments to the U.S.  
17 Attorney?

18 A Draft indictments are actually turned in  
19 the day before that meeting.

20 Q In the meeting, in September 1993, or in  
21 the fall of 1993, was it your custom and practice to  
22 discuss at these planning meetings the indictments

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1 that were proposed to come up?

2 A We do discuss them, yes.

3 Q In September 1993, who participated in the  
4 planning meeting in advance of the Hale indictment?

5 A Whichever assistants were in the office on  
6 that day. They are all expected to be there but  
7 sometimes there are court appearances or other things  
8 that conflict.

9 Q You mean there is -- it was the practice  
10 until the fall of 1993 to have all the assistants who  
11 were available in the office collect to discuss all  
12 the pending indictments for the next week?

13 A That's correct.

14 Q And --

15 MR. FISHMAN: When we say "discussed," you  
16 mean the substance or the fact that they are  
17 happening?

18 BY MR. CHERTOFF:

19 Q What was discussed at these meetings?

20 A They -- it is a meeting to plan the grand  
21 jury session for the following week.

22 Q Is it a scheduling meeting or a meeting

1 where people discuss whether indictments are well  
2 drafted or whether there is sufficient evidence?

3 A It is a scheduling meeting.

4 Q So how long did it last?

5 A I don't recall specifically how long that  
6 one lasted. That was the first scheduling meeting  
7 that occurred in the office when I became U.S.  
8 Attorney.

9 Q The one in September?

10 A September.

11 Q When you got the Hale draft indictment, did  
12 you discuss it with anybody?

13 A I don't recall discussing it with anyone.

14 Q Did you review it?

15 A I saw it. I am sure I did. I am sure I  
16 read indictments.

17 Q Did you have questions about it?

18 A I don't recall having questions about it.

19 Q You knew that the Hale case would have some  
20 public attention; right?

21 A I did.

22 Q Were you concerned about making sure the

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1 indictment was well crafted?

2 A That's always a concern.

3 Q Did you speak with anybody to have their  
4 opinion about whether the indictment was well  
5 crafted?

6 A I don't recall having any specific  
7 discussion with anyone, but copies of the indictments  
8 are given to the U.S. Attorney and to the first  
9 assistant, so I knew that Michael had reviewed that  
10 indictment.

11 Q Did you talk about it with him?

12 A And I knew that -- I'm sorry, I wasn't  
13 finished with my answer.

14 And I also knew that that was an  
15 investigation that Richard Pence had followed as the  
16 acting United States Attorney, Richard never  
17 expressed any reservations about continuing to pursue  
18 the course of action that had been planned on that  
19 indictment.

20 Q Did you discuss your -- had you discussed  
21 your meeting in telephone conversations with  
22 Mr. Coleman, with Mr. Pence before Mr. Hale was

1 indicted?

2 A I may have. Richard and I talked  
3 extensively during the first few weeks I was there  
4 about any number of things. And Richard was very  
5 busy also getting back to his -- he was carrying a  
6 full caseload. But, so he was busy getting back to  
7 the business that he had been doing before, but we  
8 talked about a number of things. I am sure we talked  
9 about that.

10 Q You would have gotten a draft of the  
11 indictment a week before the indictment was proposed  
12 to be handed down?

13 A No. I would have gotten the indictment,  
14 the indictment should have been -- the schedule was  
15 the indictment was to be turned in by 1:00 on  
16 Wednesday. The scheduling meeting was on Thursday  
17 morning, the grand jury convened the following  
18 Tuesday.

19 Q When you had the grand jury scheduling  
20 meeting, had you already received any telephone calls  
21 from reporters concerning allegations that Hale had  
22 made about the President?

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1 A Telephone calls from reporters?

2 Q Yes.

3 A No, sir.

4 Q Had you gotten information from any source  
5 that reporters were asking questions about Hale  
6 having information about the President or Governor  
7 Tucker?

8 A Before the scheduling meeting?

9 Q Right.

10 A I don't believe so.

11 Q Directing your attention to the letter of  
12 September 15th, in that first full paragraph, the  
13 first long paragraph, Mr. Coleman says "from our very  
14 first meeting Fletcher expressed a great deal of  
15 reluctance to enter into such negotiations and indeed  
16 has related to me that he would not take the  
17 responsibility for making any such recommendation."

18 Did you talk to Mr. Jackson about that  
19 statement?

20 A I don't recall specifically discussing that  
21 with Fletcher but by September the 15th, I had some  
22 appreciation for Fletcher's personality and the kinds

1 of statements he was likely to make.

2 Q Well, putting aside his personality, did  
3 you want to verify with Mr. Jackson whether in fact  
4 Mr. Coleman had been told that Mr. Jackson would not  
5 take responsibility for entering into negotiations  
6 over David Hale?

7 A Did I talk with Fletcher about whether he  
8 had said that?

9 Q Yes.

10 A I don't recall specifically discussing that  
11 with Fletcher.

12 Q Did that statement concern you?

13 A This whole letter concerned me.

14 Q I am asking did this statement concern you,  
15 the statement that the assistant was not -- was not  
16 willing to take responsibility for making a  
17 recommendation regarding the plea negotiation?

18 A It would have concerned me had I thought  
19 that it was true. If I thought I had an assistant  
20 who simply wasn't willing to take responsibility for  
21 a case that had been assigned to him, I would be very  
22 concerned about that.

1 Q Did you talk to Mr. Jackson?

2 A I am sure I talked to Mr. Jackson about  
3 this, but I also didn't regard this as serious.

4 Q You didn't regard this statement as  
5 serious?

6 A It is the kind of statement that Fletcher  
7 would make without really meaning it. I don't even  
8 know if Fletcher said it but Fletcher was handling  
9 the case. Fletcher was working on it. Fletcher  
10 would -- Fletcher was taking responsibility for it.

11 Q But in light of what on its face appears to  
12 be a complaint about the way Fletcher Jackson was  
13 handling the case, did you ask him what is this  
14 about?

15 A I'm sure that I discussed this with  
16 Fletcher, I don't recall the specific conversation.  
17 But Mr. Coleman had already been told that if he was  
18 serious about entering into a cooperation agreement,  
19 that his client was going to have to take a felony,  
20 and that he had to proffer his testimony so that it  
21 could be evaluated.

22 Q You would have to proffer his testimony



1 when? After he took the felony?

2 A No. He needed -- he could proffer his  
3 testimony under an offer of use immunity, but he  
4 needed to do that in order for us to be able to tell  
5 whether he was -- in order for us to be able to  
6 evaluate whether his client had anything to deal  
7 with.

8 Q In advance of getting an actual proffer  
9 from the witness, did you ask Mr. Coleman whether he  
10 could give you an attorney proffer stating generally  
11 the kinds of things that Mr. Hale might be prepared  
12 to testify about?

13 A Did I ask Mr. Coleman to do that?

14 Q Yes.

15 MR. KRAVITZ: At what time?

16 BY MR. CHERTOFF:

17 Q On or about this letter, September 15.

18 A Mr. Coleman never did that.

19 Q Did you ask him to do it?

20 A Did I ask him to do it?

21 Q Right.

22 A I don't recall specifically asking him to

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1 do it. But I was available if he wanted to meet. I  
2 was available when he called me on the telephone, and  
3 I responded to his letters.

4 Q Now, in the next paragraph it indicates  
5 that the -- talks about, "I cannot help but believe  
6 that this reluctance is borne out of potential  
7 political sensitivity and fallout regarding the  
8 information which Mr. Hale could provide to your  
9 office.

10 "But at the same time, it is information  
11 which would be of substantial assistance in  
12 investigating the banking and borrowing practices of  
13 some individuals in the elite political circles of  
14 the State of Arkansas past and present."

15 Did you wonder what this reference to  
16 "individuals in the elite political circles" were?

17 A Did I wonder?

18 Q Yes.

19 A I don't remember.

20 Q Did you have a sense or an opinion about  
21 who you thought he was referring to?

22 A I don't remember.

1 Q Based upon your discussions with Fletcher  
2 Jackson, in August, based upon your having looked at  
3 the original criminal referral from the RTC, based  
4 upon your having read the newspapers in 1992, did it  
5 occur to you that these were references to the former  
6 and then current governors of Arkansas?

7 MR. FISHMAN: Wait. Let me interpose a  
8 question. Are you asking her whether the day she  
9 received that letter is that what went through her  
10 mind or now as she sits here?

11 BY MR. CHERTOFF:

12 Q No, I am asking at the time you got the  
13 letter.

14 A I don't remember.

15 Q Did you speak to Mr. Jackson, and say  
16 who -- what -- who are the people in elite political  
17 circles that this guy is talking about?

18 A It never occurred to me that Mr. Jackson  
19 knew anybody in elite political circles.

20 Q I didn't ask whether Mr. Jackson knew  
21 people in --

22 A I told you about the conversations I had

1 with Mr. Jackson and about what was generally going  
2 on. I don't remember a specific conversation  
3 regarding that subject.

4 MR. BEN-VENISTE: I have to reiterate an  
5 objection to arguing with the witness. You know,  
6 there is a way to elicit the information and I think  
7 without arguing about it and without repeating the  
8 questions in the manner that you have done, Mike. I  
9 think on the substantive questions, if Mr. Coleman  
10 wanted them to know who the people were, he would  
11 have said so.

12 MR. CHERTOFF: It is wholly inappropriate  
13 for you to start making statements on the record  
14 based on your own personal opinion. If you have an  
15 objection as to form, make the objection as to form.  
16 The witness will answer. For you to make  
17 observations on record is completely inappropriate.

18 MR. BEN-VENISTE: Well, Michael, I'm sorry  
19 if you think it is inappropriate. Maybe it is sort  
20 of guidance in terms of how to save some time here.

21 BY MR. CHERTOFF:

22 Q My question was: When you got the letter

1 referring to elite political circles, did you ask  
2 either Mr. Jackson or Mr. Pence or Mr. Johnson if,  
3 based on their knowledge of the investigations or  
4 previous dealings with Mr. Coleman, they had any idea  
5 who these people were?

6 A No. However, you have to understand that  
7 my feeling was Mr. Coleman was simply trying to buy  
8 time for his client, and that's not unusual in  
9 criminal matters. He was trying to buy some time and  
10 delay an indictment, they were searching desperately  
11 for anything they could find to keep David Hale from  
12 being indicted.

13 Q How did you know that --

14 MR. FISHMAN: I'm sorry, Mr. Chertoff, I  
15 don't think she was finished.

16 BY MR. CHERTOFF:

17 Q I'm sorry, finish up.

18 A I had -- Mr. Coleman knew what the  
19 procedure was to enter into a cooperation agreement  
20 with his client, that had been discussed with him.  
21 In retrospect, what I know now is Randy Coleman was  
22 not an experienced criminal defense lawyer and I

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1 think, to give him the benefit of the doubt, he may  
2 have thought that we weren't dealing up front with  
3 him but that, in fact, was not the case.

4 We were dealing with his client like any  
5 other defendant who came through that office. That's  
6 what would have been offered to anyone else. If I  
7 had wanted not to investigate the banking practices  
8 or the elite political circles of Arkansas, I  
9 wouldn't have prosecuted David Hale and he never  
10 would have talked and that's the bottom line. I  
11 offered him exactly what the Independent Counsel's  
12 office offered him and what he eventually took except  
13 he pled to two felonies and I offered him one.

14 Q Now I have to go back and ask the question,  
15 did you have discussions with Mr. Pence or  
16 Mr. Jackson or Mr. Johnson about who these  
17 individuals in elite political circles might be that  
18 were being mentioned in this letter by Mr. Coleman?

19 MR. KRAVITZ: You mean right after she got  
20 the letter?

21 BY MR. CHERTOFF:

22 Q At the time you got the letter.

1       A    I don't remember specifically doing that  
2 but I have to -- and I answered that question before  
3 but I will tell you again, I don't remember after  
4 2-1/2 years the specific contents of any of those  
5 specific conversations. I simply recall that they  
6 occurred.

7       Q    Now in the letter, in the second page, you  
8 still have it in front of you, the first full  
9 paragraph, it says in the last sentence, "for  
10 instance, I have offered an informal proffer of  
11 Mr. Hale's information for evaluation of its quality  
12 and content but have received absolutely no interest  
13 in the process."

14           What did you understand by an "informal  
15 proffer"?

16       A    He never -- an informal proffer would have  
17 been for him to -- an attorney proffer is what I  
18 assume he was talking about, but that in fact had not  
19 happened.

20       Q    Did you regard this letter as an offer of  
21 an attorney proffer?

22       A    Did I regard this letter as an offer?

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1       Q    He said "I have offered an informal proffer  
2 for Mr. Hale's information." Did you regard that as  
3 the occasion to pick up the phone and say, Randy,  
4 come in and let's have the attorney proffer?

5       A    Being I wrote a letter back to him, with  
6 whatever my answer was, but the fact of the matter is  
7 he says in the past tense as though it had already  
8 happened, "I have offered," "I have offered an  
9 informal proffer of Mr. Hale's information." That  
10 never occurred.

11       Q    You checked that with Mr. Jackson?

12       A    I am sure we talked about it at the time.  
13 I don't remember the specific conversation, but I  
14 know that he never made that proffer to me, it  
15 certainly didn't happen the day -- the five minutes  
16 it was in my office the day after Labor Day.

17       Q    But when he wrote the letter, you got the  
18 letter saying I have offered an informal proffer,  
19 putting aside the present or past tense, did it occur  
20 to you to pick up the phone and say come on in,  
21 you've talked about an attorney proffer, let's get  
22 the attorney proffer?



1 A Did that specifically occur to me in those  
2 words?

3 Q In substance.

4 A No. I don't recall that it did.

5 Q When -- at the very beginning of that  
6 paragraph, "would it not be appropriate at this point  
7 for your office to consider terminating participation  
8 in this investigation and to bring in independent  
9 prosecutorial staff who are not so involved with the  
10 history of the personalities and circumstances of  
11 this case."

12 Did you take that as a reference to your  
13 own relationship with Governor Tucker?

14 A Not necessarily.

15 Q Well, what did you think it referred to?

16 A I thought it was another attempt by Randy  
17 Coleman to delay the indictment of his client but I  
18 can also --

19 Q Finish up.

20 A I can also tell you that I wanted his  
21 client to proffer his testimony if in fact he had  
22 anything to proffer. Because if the referrals that

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1 we were expecting from the RTC had not arrived at the  
2 end of August, were not there during this grand jury  
3 session, there was nothing there for me to recuse  
4 from. I didn't know David Hale, Charlie Matthews or  
5 Eugene Fitzhugh, and there was nothing about that  
6 particular indictment that caused me any concern or  
7 caused -- or presented any reason for me to recuse.

8 Had he given me a reason, I would have  
9 considered doing it. I'm sorry that my answer is  
10 boring you, but that is in fact my answer. I know  
11 your questions are more important.

12 Q No, I am frankly -- it is a little beyond  
13 the scope of the question. I am not -- you are  
14 entitled to say it. I am also mindful of the fact  
15 that counsel for the minority have to leave for a  
16 meeting so I think we should suspend and we can go  
17 off the record.

18 (Discussion off the record.)

19 (Recess.)

20 BY MR. CHERTOFF:

21 Q Ms. Casey, now I am going to show you  
22 Exhibit 7369 for identification, and ask you, is that

1 the signature -- is that the letter you wrote back to  
2 Mr. Coleman in response to the letter of the 15th of  
3 September?

4 A It appears to be.

5 Q And you recognize your signature?

6 A Yes.

7 Q Now, your offer or your response to  
8 Mr. Coleman was that you were prepared to discuss  
9 reward and cooperation only in the context of a  
10 motion to allow a downward departure in sentence?

11 A If you give me just a moment.

12 MR. KRAVITZ: Is this the September 16th  
13 letter?

14 MR. CHERTOFF: Yes.

15 MR. KRAVITZ: My copy is a different Bates  
16 number. That's why I am asking.

17 THE WITNESS: Yes.

18 BY MR. CHERTOFF:

19 Q And with whom did you discuss that  
20 response?

21 A I discussed this response with Michael  
22 Johnson.

1 Q And what was Mr. Johnson's recommendation  
2 about what you should offer to Mr. Coleman?

3 A My recollection is that I, after discussing  
4 it with him, I took his advice, so this letter would  
5 contain the advice that I received from Michael.

6 Q Now was your suggestion under this proposal  
7 that Mr. Hale plead guilty first, and then depending  
8 on the cooperation he gave you, would get a reduction  
9 in sentence?

10 A The letter is not very artfully drafted,  
11 but I am referring to either a 5K1.1 or a Rule 35  
12 motion depending on the timing.

13 Q Now just for the uninitiated, will you  
14 explain what those two motions are?

15 A 5K1.1 of the federal sentencing guidelines  
16 provides for a downward departure at the time of the  
17 original sentencing; a Rule 35 or the federal rules  
18 of criminal procedure provides for a reduction in the  
19 sentence that has already been passed.

20 Q Your position in this letter was you were  
21 not prepared to negotiate a reduction in charges, but  
22 only to discuss either a reduction in sentence at the

1 time of sentencing, or a reduction in sentencing  
2 after sentencing; correct?

3 A I am not sure that that's exactly correct.  
4 I don't recall specifically the various charges in  
5 the original indictment. But my recollection is that  
6 there was more than one charge, so this would have  
7 contemplated some reduction in that, I think.

8 Q Reduction in charges?

9 A Could have.

10 Q Can you direct me to where in the letter  
11 that it indicates there would be a possibility of  
12 reduction in charges?

13 A No, I can't. I am not sure that it is  
14 there, but what I am saying is, does it contemplate  
15 that there could have been a reduction from felony to  
16 misdemeanor or to -- or an immunity grant, but there  
17 were multiple -- my recollection is there were  
18 multiple felony charges in the indictment.

19 Q At this time, as of September 16, had you  
20 had any discussions with anybody at all, either in  
21 the office or with Mr. Coleman, about the possibility  
22 of Mr. Hale doing undercover cooperation?

1 A Mr. Coleman mentioned that at some point,  
2 and I don't recall specifically when.

3 Q Now, did it -- did you understand that once  
4 Mr. -- well, let me withdraw the question.

5 What was your reaction to that?

6 A My reaction to that was the same as my  
7 reaction to other conversations I had with Randy  
8 Coleman, and that was that it was impossible to  
9 evaluate unless his client was willing to proffer  
10 what he knew.

11 Q Now, did you ask Mr. Coleman at that time  
12 to give an informal proffer or an attorney proffer  
13 about what -- who the targets of this undercover  
14 operation might be?

15 MR. FISHMAN: At what point?

16 BY MR. CHERTOFF:

17 Q At the point at which she discussed with  
18 Mr. Coleman the possibility of an undercover  
19 operation.

20 A I don't remember that for sure because I  
21 don't remember at exactly what point Randy raised  
22 that. In fact, I don't remember whether he raised

1 that in a phone conversation or in a letter.

2 I don't think he mentioned it the first  
3 time we met, but I don't remember exactly when he did  
4 mention it.

5 Q Whenever he mentioned it, did you ask him  
6 who the potential targets of that undercover  
7 operation would be?

8 A I don't remember having any lengthy  
9 conversation with him about it.

10 Q Even briefly, did you ask him who the  
11 potential targets of the undercover operation would  
12 be?

13 A I never discussed the names with Randy  
14 Coleman.

15 Q Well, when he made this proposal regarding  
16 an undercover operation, what was your response to  
17 him?

18 A Well, I am not sure that I would  
19 characterize it as a proposal to conduct an  
20 undercover operation. It was more just in the matter  
21 of passing that his client would be willing to  
22 cooperate, his client would be willing to do anything

1 to avoid the indictment that was coming in  
2 September. He would be willing to do anything  
3 including working undercover, that's my recollection  
4 of what that conversation was.

5 Q When he said undercover, did he use the  
6 phrase wear a wire or wear a tape or anything like  
7 that?

8 A I don't remember specifically that he said  
9 that.

10 Q Did you discuss that possibility with  
11 anybody else in your office?

12 A I am sure I discussed it with Michael,  
13 probably with Fletcher.

14 Q And were they interested in pursuing this?

15 A Well, we never reached the level of being  
16 interested in pursuing it because we didn't know what  
17 we were pursuing.

18 Q Well, did you go back to Mr. Coleman and  
19 say to him, can you tell us, describe the people he  
20 would be prepared to wear a wire against?

21 MR. FISHMAN: I'm sorry, Michael, I think  
22 that you've asked it again and she said no.



1 MR. CHERTOFF: I am asking a little bit of  
2 a different question. I am asking -- we have had  
3 testimony, now that Mr. Coleman raised this issue,  
4 Ms. Casey discussed it with a couple of her  
5 assistants, and I want to find out if in the wake of  
6 that discussion she reached out for Mr. Coleman to  
7 see who is Mr. Hale going to potentially wear a wire  
8 against.

9 MR. FISHMAN: Okay, it is referred to in  
10 some correspondence, I am not sure what the timing  
11 is.

12 THE WITNESS: I don't recall the specific  
13 timing of any of this. I know that it was  
14 discussed. And I know that the offer was made to  
15 arrange for Mr. Hale to proffer his testimony so that  
16 it could be evaluated. He never did that so we never  
17 moved beyond that point.

18 BY MR. CHERTOFF:

19 Q Did you receive a call within a day or so  
20 before you sent your letter back to Mr. Coleman from  
21 a reporter concerning David Hale?

22 A I don't remember -- I don't remember the

1 dates. On the Friday, the Friday following the grand  
2 jury planning meeting, which was the Friday before  
3 the week that the grand jury convened.

4 Q I think that would be the 17th.

5 MR. FISHMAN: I think that's right.

6 THE WITNESS: I received, not a -- I don't  
7 believe I ever received a telephone call. I received  
8 a visit from Jeff Gerth, G-e-r-t-h, another reporter  
9 from The New York Times.

10 BY MR. CHERTOFF:

11 Q What did they say to you?

12 A That David -- I don't remember specifically  
13 what they said to me. I don't remember if they told  
14 me specifically that they had talked with David Hale  
15 but I believe they did, but they had spent a  
16 considerable amount of time talking with David Hale,  
17 and that he had information about various things.

18 Q Did they tell you about what information he  
19 had?

20 A Generally, I think that they did.

21 Q What?

22 A I don't remember specifically now exactly

1 what they told me. I do remember that I was  
2 concerned about not -- I knew that it was  
3 inappropriate for me to comment because we had an  
4 ongoing investigation, and I was concerned about  
5 giving them any -- any indication of anything that I  
6 knew or any information from my office, because it  
7 was inappropriate.

8 Q Did they mention any names to you that  
9 Mr. Hale had mentioned?

10 A They may have.

11 Q Did they mention the Clintons?

12 A They may have. They may have talked  
13 about -- he may have discussed -- I think it was Jeff  
14 Gerth who wrote the articles in 1992 that I referred  
15 to earlier and he may have referred to those but he  
16 spent -- he didn't spend a lot of times discussing  
17 that with me. I think when he realized that I wasn't  
18 going to talk about the investigation that we had  
19 going, he asked me some general questions about me,  
20 and my background.

21 Q How long did this interview last?

22 A Not very long.

1 Q How much time did they spend with you?

2 A 20, 25 minutes. I am not positive about  
3 that. It was at the very end of the day on Friday,  
4 and I don't -- I mean, I remember it was the very end  
5 of the day. I don't remember exactly how long they  
6 were there but my recollection is it wasn't wrong.

7 Q Was it your understanding from these  
8 reporters that Mr. Hale had mentioned or made  
9 allegations against certain prominent people?

10 MR. FISHMAN: Generally, you mean.

11 MR. CHERTOFF: Yes.

12 THE WITNESS: Generally, yes.

13 BY MR. CHERTOFF:

14 Q And was it your understanding, did you have  
15 it in your mind that one of the people, whether you  
16 heard it directly from them or whether you surmised  
17 it, that was mentioned by Mr. Hale was President  
18 Clinton?

19 A I don't remember specifically what they  
20 said, but then and now, I knew that a reporter from  
21 The New York Times was not in Little Rock pursuing  
22 that story for any other reason.

1 Q That's reasonable.

2 What did you do after they left? Did you  
3 call anybody about it?

4 A Not that day. That was the very end of the  
5 day on Friday.

6 Q Did you call somebody the next business  
7 day -- withdraw the question, did you call somebody  
8 over the weekend?

9 A I did.

10 Q Who?

11 A Tony Moscato, M-o-s-c-a-t-o.

12 Q You called him on Saturday?

13 A I called him either on Saturday or Sunday.  
14 I don't recall which.

15 Q And he was the head of the Executive Office  
16 for U.S. Attorneys?

17 A Yes, he was.

18 Q You got him through the Justice Department  
19 command center?

20 A I did.

21 Q What did you tell him?

22 A I told him that I had been visited by these

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1 two reporters from The New York Times, that they were  
2 interested in this David Hale investigation. I am  
3 sure I related the substance of the conversation to  
4 him at that time. It was much fresher on my mind and  
5 I was looking for some guidance about what to do and  
6 concern that I needed to let somebody at the  
7 Department know that, there was that level of  
8 interest in a case that was going on in my office.

9 Q What did Mr. Moscato say?

10 A I was getting ready to leave to go to  
11 San Antonio to the Federal Practice Institute. He  
12 instructed me to find Wayne Rich, who was his --  
13 R-i-c-h, who was his chief deputy, or his assistant  
14 director or I am not sure of his exact title. And he  
15 told me to find Wayne when I arrived in San Antonio  
16 and to discuss the matter with him, and get some  
17 instruction from him about what to do.

18 Q Did you do that?

19 A I attempted to.

20 Q What happened?

21 A I found Wayne Rich on Monday morning when  
22 the seminar started. He delayed talking to me.

1 Between -- he sort of put me off and told me he would  
2 try to talk with me later and between the time we had  
3 that conversation, before -- before he and I could  
4 have any further conversation, I had been contacted  
5 by the Department and so I -- there was no further  
6 need to talk to Wayne.

7 Q Who contacted you from the Department?

8 A Jack Keeney, K-e-e-n-e-y.

9 Q At the time, was he the acting head of the  
10 criminal division?

11 A I believe he was, yes.

12 Q Was anyone else on the phone with him?

13 A He had me on a speaker telephone or he had  
14 a speaker telephone in his office and my  
15 understanding is there were a number of other people  
16 there.

17 Q Do you know who they were?

18 A No, sir, I do not.

19 Q What was the discussion?

20 A The discussion was that someone at the  
21 Department and I believe it was Irv Nathan, and Irv  
22 Nathan was Phil Heymann's chief deputy, I think. Irv

1 Nathan had received an anonymous telephone call, that  
2 in this phone call, Irv had been told that David Hale  
3 had information about President Clinton, and based on  
4 that, Mr. Keeney thought I should recuse from the  
5 David Hale investigation.

6 Q And when he said this to you, did he  
7 indicate to you that he was expressing the views of  
8 other people besides himself?

9 A I don't recall that specifically, but I  
10 know that there were other people in the room who  
11 expressed the view.

12 Q What did you say?

13 A I explained to him the history of the David  
14 Hale investigation, and what had been going on with  
15 that plea bargain. I told him that we had -- that  
16 Mr. Hale had not or Mr. Coleman had not made Mr. Hale  
17 available for a proffer, and that I didn't believe  
18 that they were dealing with us seriously and I  
19 thought it was inappropriate to recuse based on an  
20 anonymous telephone call.

21 Q At this point in time, you had some  
22 understanding that the Department believed that



1 Mr. Hale's cooperation could entail cooperation  
2 against the President?

3 MR. FISHMAN: When you say "the Department"  
4 believed it, let me object to the form of it.

5 MR. CHERTOFF: I withdraw the question.

6 BY MR. CHERTOFF:

7 Q At this point during this conversation, did  
8 you have the impression that the Department was  
9 concerned about whether Mr. Hale's cooperation might  
10 involve the President and therefore create a  
11 situation where you would have to recuse yourself?

12 A I am not sure I understand the question. I  
13 know that Mr. Keeney was concerned about the phone  
14 call that had been received, and the fact that the  
15 President had been named.

16 I am not sure that the people in the  
17 Department had any clear understanding of what my  
18 relationship with the President was.

19 I don't -- I don't know what he was  
20 thinking.

21 Q How long was the phone call?

22 A I would have to guess. I would say it was

1 maybe five or 10 minutes long. It wasn't a real  
2 lengthy telephone call but --

3 Q Did they ask you about what you knew  
4 concerning Mr. Hale's allegations?

5 A Yes.

6 Q Did they ask you about what --

7 A I believe they did. I don't recall that  
8 specifically.

9 Q Did they ask you about what negotiations or  
10 discussions you had with Mr. Coleman?

11 A I know that generally we must have  
12 discussed that case. I know that I must have told  
13 them that Mr. -- that Mr. Coleman had -- Mr. Coleman  
14 knew that we were willing to take a proffer from his  
15 client, and that that was available to him and had  
16 been on the table for a while and they had not done  
17 it.

18 Q Did you tell Mr. Keeney that Mr. Coleman  
19 had on an earlier occasion indicated that there were  
20 individuals in the political elite that Mr. Hale  
21 could cooperate against?

22 A I don't recall specifically doing that but

1 it would make sense that I did, just in the context  
2 of relating the history of what had happened in that  
3 investigation during the brief time I had been in the  
4 office.

5 Q Did you indicate to Mr. Keeney that you had  
6 had a discussion with Mr. Coleman during which, in  
7 substance, he indicated to you that Mr. Hale could  
8 cooperate against big people who might be too big for  
9 your office to prosecute?

10 A I don't recall specifically saying that but  
11 I did relate the history of the case.

12 Q Did you say to Mr. Keeney that in a letter  
13 you received a few days before from Mr. Coleman, he  
14 had indicated to you that he thought an independent  
15 prosecutorial agency ought to be brought in to handle  
16 the case?

17 A I don't know that I specifically told him  
18 that.

19 Q Did Mr. Keeney ask you whether you knew of  
20 any allegations against the President?

21 A I don't --

22 MR. FISHMAN: You mean personally or --

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1 MR. CHERTOFF: From Mr. Hale.

2 THE WITNESS: I don't recall that he  
3 specifically asked me that. I know -- I know that we  
4 discussed what was the status of that case, what was  
5 going on with that case. I know we talked about the  
6 fact that it was scheduled for indictment that week.  
7 I know that I must have -- I know that I must have  
8 told them that I felt that Randy Coleman was simply  
9 trying to delay the indictment of his client and buy  
10 some time. That was my feeling at the time.

11 BY MR. CHERTOFF:

12 Q And what did Mr. Keeney say in response to  
13 that?

14 A I don't recall specifically what he said in  
15 response to that. I know that we did not -- that at  
16 the -- that that conversation concluded but with no  
17 clear resolution of whether I was going to recuse or  
18 not recuse. It was -- that was an issue that was  
19 left open. I know that it was my feeling at the time  
20 that it was inappropriate for a United States  
21 attorney to recuse from the case based on an  
22 anonymous telephone call.

1 Q What about, based upon your previous  
2 conversations with Mr. Coleman coupled with what you  
3 knew from your conversations with Mr. Jackson, about  
4 the individuals whose activities might be subject to  
5 an investigation growing out of David Hale  
6 investigation? Did you consider at that point  
7 whether all that information might prompt you to  
8 recuse yourself because Governor Tucker might be a  
9 subject of investigation?

10 A I don't recall specifically thinking that.  
11 I can tell that you my thinking was that if David  
12 Hale had information about someone, that he needed to  
13 take the next step, which was to proffer that  
14 information, and he did not do that.

15 Q Did the -- did Mr. Keeney indicate to you  
16 that you should tell Mr. Coleman that he would be  
17 free to contact the Department of Justice directly,  
18 that is to say, main Justice, if he wished to talk to  
19 main Justice about a resolution of the case?

20 A I don't recall him specifically telling me  
21 that, but there was sort of a three-way conversation  
22 going on. I was in San Antonio, my first assistant

1 was in Little Rock, I think, at the beginning of that  
2 week, but he left and came to the Washington area  
3 because he was attending a meeting. And Mr. Keeney  
4 and the people at the Department were also talking to  
5 Michael, so I don't -- but I don't remember him  
6 saying it to me.

7 Q Whether he said it to you or he said it to  
8 Mr. Johnson or whether it was just said in general in  
9 the telephone conference call, during the conference  
10 call, did Mr. Keeney indicate, in substance, that you  
11 or Mr. Johnson should tell Mr. Coleman that they were  
12 free to go to contact main Justice if they wanted to  
13 raise the issue of cooperation with them?

14 MR. FISHMAN: Let me object to the form. I  
15 think there was an assumption. I don't think she  
16 said it was a conference call including Mr. Johnson.

17 MR. CHERTOFF: Let me clarify this.

18 BY MR. CHERTOFF:

19 Q Was Johnson on the phone with you at all?

20 A No, he was not.

21 Q Then my question is whether in the call  
22 with you Mr. Keeney raised the issue and said to you,

1 in substance, that you can advise Mr. Coleman that he  
2 can contact main Justice if he wants to pursue his  
3 negotiations there?

4 A I don't recall Mr. Keeney saying that to me  
5 and my recollection now, two years, over two years  
6 later, is that he didn't give me any clear  
7 instruction about doing anything, that the issue  
8 was -- I don't recall him giving me any specific  
9 instruction about doing anything.

10 Q Was there a discussion with Mr. Keeney in  
11 which Mr. Keeney indicated his understanding that  
12 Mr. Coleman was refusing to make a proffer to the  
13 office in Little Rock because he didn't feel  
14 comfortable or didn't trust the office in Little  
15 Rock?

16 A That may have happened. I don't recall  
17 that.

18 Q Did Mr. Keeney then go on to say, in  
19 substance, that if Mr. Coleman didn't want to make a  
20 proffer in Little Rock, he can come to Washington and  
21 make a proffer to us?

22 A I don't recall him saying that.

1 MR. BEN-VENISTE: Are you suggesting that  
2 that meant, by way of clarification, that Ms. Casey  
3 was directed to tell Mr. Coleman this information?

4 MR. CHERTOFF: My next question is going to  
5 be did you --

6 MR. BEN-VENISTE: I don't think --

7 MR. CHERTOFF: I am not suggesting  
8 anything.

9 BY MR. CHERTOFF:

10 Q I am asking whether you understood from  
11 Mr. Keeney that you should convey to Mr. Coleman that  
12 he could take the proffer to Washington if he felt  
13 uncomfortable proffering to you in Little Rock?

14 A I don't recall discussing that.

15 Q In your own mind, did it occur to you at  
16 that point that if Mr. Coleman was uncomfortable  
17 coming into Little Rock with his proffer because of  
18 some perceived concern about relationships, that you  
19 could invite him to take it to Washington? This is  
20 on your own initiative, did you think about that?

21 A I don't recall thinking about that.

22 Q How did you leave it with Mr. Keeney on the



1 phone call?

2 MR. KRAVITZ: I'm sorry?

3 BY MR. CHERTOFF:

4 Q How did you leave it with Mr. Keeney in  
5 that phone call?

6 MR. FISHMAN: In that particular phone  
7 call.

8 MR. CHERTOFF: Yes, in that phone call.

9 That's what I just said.

10 THE WITNESS: My recollection is that we --

11 that it was left on the basis that I did -- that

12 perhaps it was inappropriate to recuse based on an

13 anonymous phone call. I don't recall that there was

14 anything more specific than that. No clear

15 resolution of any -- of anything.

16 BY MR. CHERTOFF:

17 Q Did they ask you to keep them informed?

18 A I don't remember that, but I would.

19 Q Did they ask you to send in a memo to the

20 Department, so-called urgent case memo?

21 A No.

22 Q Did they ask you to make any kind of

1 written report?

2 A No. I don't believe so.

3 Q Did you talk to Mr. Keeney or anyone from

4 main Justice on more than one occasion other than

5 that Monday?

6 A I don't believe I talked to anybody else at

7 main Justice but I do think that Mr. Keeney and I

8 tried several times before we finally made contact

9 with each other, and I talked with Michael several

10 times during that week and maybe even several times

11 on that day. Michael talked to some people at main

12 Justice, I believe Michael talked to Mr. Keeney.

13 Q Did you have a conversation with

14 Mr. Johnson in which he told you about his

15 discussions with Mr. Keeney?

16 A I had conversations with Michael and I am

17 sure he did tell me about that.

18 Q What did he tell you?

19 A I don't recall. I know that we talked

20 about this subject generally. Michael may have told

21 me about the anonymous phone call, I know I talked to

22 Michael at least once before I talked to Mr. Keeney

1 on that day. I believe that there was another letter  
2 that had come into the office from Randy Johnson.

3 MR. FISHMAN: Randy --

4 THE WITNESS: There was another letter that  
5 had come in from a Randy Coleman. I said Randy  
6 Johnson, I meant Randy Coleman. And Michael and I  
7 talked about the appropriate response to that and we  
8 discussed it over the telephone.

9 BY MR. CHERTOFF:

10 Q Was that before you had your actual  
11 discussion with Mr. Keeney?

12 A I don't remember. It was all during that  
13 same time period.

14 Q I am going to show you a Bates Exhibit  
15 17493 which is a letter of September 20 to  
16 Mr. Johnson from Mr. Coleman. Is that the letter  
17 that you discussed with Mr. Johnson?

18 MR. FISHMAN: For the record, I think there  
19 may be two letters from Mr. Coleman on that day so if  
20 you could identify which one this is.

21 BY MR. CHERTOFF:

22 Q "Dear Michael," September 20, 1993, and

1 it's one full paragraph.

2 MR. KRAVITZ: I think that's the only  
3 letter to Mr. Johnson.

4 MR. FISHMAN: Okay, I just thought there  
5 were two on that day.

6 THE WITNESS: I'm not clear which letter  
7 this is.

8 BY MR. CHERTOFF:

9 Q Have you ever seen this letter?

10 A Yes.

11 Q Did you see it when you got back from  
12 San Antonio?

13 A I am sure I did. I have seen all these  
14 letters before but I think there were some other  
15 letters, judging from the content of this letter,  
16 there was a letter to me, there was the response that  
17 Michael and I talked about on the telephone would  
18 have been the response to the other Coleman letter,  
19 September the 20th, because this one says "dear  
20 Michael, thank you for your letter of September 20."

21 Q Here is Exhibit 7632. It is a letter to  
22 you from Randy Coleman; is that the letter you

1 believe is the first letter in the sequence?

2 A Probably, yes.

3 Q And is this the letter that you recall  
4 speaking to Mr. Johnson about?

5 A I'm sure that this must be the one. I know  
6 we talked about a letter, this had to be the first  
7 one.

8 Q What was the discussion with Mr. Johnson  
9 about the letter?

10 A We discussed a response to that letter, we  
11 talked about it over the telephone.

12 Q What was the agreement that you had?

13 A I'm sorry, the agreement?

14 Q What did you and Mr. Johnson agree should  
15 be done in response?

16 A We agreed upon a response and I don't  
17 remember specifically what's in the response but I am  
18 sure you have a copy of it.

19 Q I will show you Exhibit 4680 for  
20 identification. Is that the response you sent, or  
21 you directed to be sent to Mr. Coleman?

22 A I'm sure that it is, yes.

1 Q Now, did you then learn from Mr. Johnson  
2 that there had been a further reply to that from  
3 Mr. Coleman?

4 A I'm sure that I did, because Michael and I  
5 talked a number of times. I don't remember  
6 specifically but we talked several times.

7 Q Is that further reply the letter of  
8 September 20 directed to Mr. Johnson?

9 A I believe it must be.

10 Q Now, how long were you in San Antonio?

11 A I returned to Little Rock, I believe, on  
12 Thursday.

13 Q That's the 23rd?

14 A Yes.

15 Q And during the time you were in  
16 San Antonio, did you have further discussions with  
17 the Department of Justice?

18 A I don't recall that I did. I only -- I  
19 only remember having the one conversation with  
20 Mr. Keeney.

21 Q Now let me direct your attention to the  
22 letter of September 20, that is directed to

1 Mr. Johnson.

2 The third sentence says "I previously  
3 indicated to your office that we were willing to  
4 listen to reasonable proposals other than immunity  
5 for some time but did not receive any concrete  
6 offers. Also I have previously indicated to Fletcher  
7 some time ago very definitive areas in which Mr. Hale  
8 had knowledge and also reviewed a list of names  
9 involved as well. I made it known that Mr. Hale was  
10 willing to participate in undercover operations to  
11 develop additional information regarding same. This  
12 is much like the operation in Kentucky conducted by  
13 federal authorities which I read about in the morning  
14 newspaper."

15 Did you understand what the reference to  
16 "operation in Kentucky" was?

17 A I am sure I knew at the time. I don't  
18 recall now.

19 Q Would it refresh your memory if I told you  
20 there was an FBI operated undercover operation in  
21 which a number of government officials in Kentucky  
22 were ultimately discovered and prosecuted for

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1 engaging in corrupt activities?

2 A I'm -- I knew that -- I mean, I knew at the  
3 time, I am sure, what he was referring to.

4 Q Either from San Antonio or when you got  
5 back to Little Rock, did you ask Mr. Jackson to  
6 describe to you the litigation of names, that  
7 Mr. Hale had -- or Mr. Hale's counsel had reviewed  
8 with Mr. Jackson?

9 A Did I specifically ask Fletcher that?

10 Q Yes.

11 A I don't recall doing this but by -- at this  
12 point in time, I think it is obvious from the  
13 correspondence I had made Michael my first assistant  
14 and I had asked Michael to oversee this case, and to  
15 give Fletcher some more direct and close  
16 supervision.

17 Q When did you make the decision to have  
18 Mr. Johnson take direct supervision over the case?

19 A Well, in making him the first assistant, I  
20 did that but we specifically talked about this, about  
21 this case, among others, I don't remember -- the  
22 first week in September, I think, is when I made



1 Michael the first assistant.

2 Q But when did you talk about putting him in  
3 charge of the -- of direct supervisory control over  
4 the Hale case?

5 A I don't remember specifically, but it would  
6 have been early on after making him the first  
7 assistant.

8 Q What caused to you do it?

9 A What caused me to do it? I thought it was  
10 a significant case that -- that needed someone to pay  
11 attention to it. I had difficulty talking sometimes  
12 with Fletcher.

13 Q Women, was that related to Mr. -- was your  
14 decision to have Mr. Johnson take a direct role in  
15 the case related to Mr. Coleman's complaint that he  
16 had a difficulty getting a reaction to a plea  
17 negotiation or a plea proposal from Mr. Jackson?

18 A I don't know that it was specifically that,  
19 although that was included in the correspondence and  
20 I am sure Michael and I must have talked about that  
21 at the time. But my concern was that it was a  
22 sensitive case, I picked Michael to be my first

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1 assistant because he was experienced and I trusted  
2 him and I trusted his judgment.

3 Q Did you then remove Mr. Jackson from the  
4 case?

5 A No, I did not remove Mr. Jackson from the  
6 case.

7 Q Did you continue to deal with Mr. Jackson  
8 in terms of getting information about the case?

9 A In terms of getting information about the  
10 case?

11 Q Yes.

12 A I don't recall doing that.

13 Q Did you --

14 A I dealt a whole lot more with Michael after  
15 I made him my first assistant than I did with  
16 Fletcher.

17 Q After you got this letter, did you ask  
18 Michael Johnson to sit down with Fletcher Jackson to  
19 review the list of names which Mr. Coleman indicated  
20 he reviewed with Mr. Jackson?

21 A Did I specifically do that?

22 Q Yes.

- 1 A No, but this letter is September the 20th.  
2 The case was scheduled for indictment on the 21st  
3 which was -- well, scheduled -- the grand jury was  
4 convening the next day, the indictments weren't  
5 concerned until Thursday.  
6 Q So Thursday was the 23rd?  
7 A Yes.  
8 Q You came back on Thursday?  
9 A Yes, I did.  
10 Q Did you, before you came back, say --  
11 before you came back, did you say to Mr. Johnson that  
12 you wanted to -- let me withdraw the question.  
13 Did you consider coming back early to find  
14 out what was going on with the case?  
15 A I did come back early; Thursday was coming  
16 back early.  
17 Q Did you consider coming back before the day  
18 of indictment to sit down with Mr. Johnson and  
19 Mr. Jackson and figure out whether Mr. Hale had  
20 cooperation to give of an undercover nature or didn't  
21 have cooperation to give?  
22 A I don't recall considering coming back
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- 1 early to do that. What I recall is that the  
2 situation remained the same as it had been during the  
3 previous weeks, which was there was an offer to  
4 Mr. Coleman that we would arrange for his client's  
5 proffer. And that we would do that. That didn't  
6 require my presence.  
7 Q But when -- well, the letter of September  
8 20 indicated that Mr. Coleman had reviewed a list of  
9 names and definitive areas of Mr. Hale's knowledge  
10 with Mr. Jackson.  
11 Did that seem to you to be some kind of a  
12 proffer, that there had been some kind of a proffer  
13 given?  
14 A That's the way the letter reads. But --  
15 Q Did you --  
16 MR. FISHMAN: I'm sorry, Mr. Chertoff. You  
17 are cutting off the witness. She was in the middle  
18 of her sentence.  
19 THE WITNESS: But we look at earlier  
20 letters, there were times in these letters when -- I  
21 will say this as kindly as I can, I think Randy is  
22 sort of rewriting history.

1 BY MR. CHERTOFF:

2 Q Who looked at the letters, when you say we  
3 looked at the letters?

4 A Earlier in one of my depositions, I pointed  
5 out to you that he said that he had made a proffer,  
6 that he had made, I think it referred to a proffer  
7 that he had made, when in fact that never happened.

8 Q Well, I am asking you with respect to this  
9 letter, when this letter came in, did you and  
10 Mr. Johnson or anybody else in your office say before  
11 we indict the case, did Coleman actually give us a  
12 list of names Hale is prepared to give us cooperation  
13 against?

14 A Mr. Johnson may have done that. I did not  
15 do that. But regardless, regardless of -- it wasn't  
16 necessary to do that. Regardless of who Mr. Hale  
17 could give us, we still had this SBIC case that was  
18 there to be resolved, that -- who he could give us  
19 didn't change that in any respect.

20 Q Well --

21 MR. KRAVITZ: Mike, I'm sorry. For a point  
22 of clarification, have we established that Ms. Casey

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1 even saw this letter before the case was indicted.  
2 It is obviously dated --

3 BY MR. CHERTOFF:

4 Q Saw or heard about it, had discussions  
5 about it.

6 A I don't specifically recall having a  
7 discussion about this case.

8 MR. FISHMAN: This letter?

9 THE WITNESS: I mean this letter, thank  
10 you. I don't specifically recall that but I am  
11 certain Michael and I must have discussed it because  
12 we talked several times about this matter.

13 BY MR. CHERTOFF:

14 Q Did you understand, Ms. Casey, that once  
15 you indicted Mr. Hale publicly, it would become  
16 impossible for him to be involved in an undercover  
17 operation?

18 A That's true, Mr. Chertoff, but it is also  
19 in retrospect my impression that it was impossible at  
20 this point in time because this matter, although he  
21 had not yet been indicted, there were already some  
22 things that were going on publicly, including the

1 receivership of the SBIC that he had managed.

2 Q Are you telling me that you made a judgment  
3 during the week of September 20 that he was useless  
4 for an undercover operation?

5 A No. I made it -- I am telling you we were  
6 never able to make a judgment about whether he was  
7 useful in an undercover operation because he wouldn't  
8 proffer his testimony. So there was no way to  
9 evaluate his usefulness.

10 Q Did you ever check with Mr. Jackson to see  
11 whether before September 20th, Mr. Coleman had given  
12 Mr. Jackson definitive areas in which Mr. Hale had  
13 knowledge and reviewed a list of names with him?

14 A Did I ever do that?

15 Q Yes.

16 A No, I did not.

17 Q Did you have a meeting when you came back,  
18 shortly after you came back on September 24, with the  
19 FBI in Little Rock regarding the Hale case?

20 A I returned on September the 23rd, the  
21 meeting I believe was the following morning September  
22 the 24th.

1 Q By the way, before I -- just a moment.

2 In fairness, I will show you Exhibit 05167  
3 for identification. Is this a letter which was sent  
4 back while you were away?

5 A I think this is a response to the September  
6 20 letter.

7 Q So you did in fact respond to the letter on  
8 the 20th; correct?

9 MR. FISHMAN: For the record, that would be  
10 the letter Bates stamped 17493.

11 MR. CHERTOFF: Correct, the second letter  
12 on the September 20.

13 MR. FISHMAN: The one to Mr. Johnson?

14 MR. KRAVITZ: I am confused.

15 MR. FISHMAN: For the record, it appears  
16 that the letter to Ms. Casey was responded to by  
17 Mr. Johnson, and the letter to Mr. Johnson was  
18 responded to by a letter signed by Ms. Casey.

19 MR. CHERTOFF: Or signed at her direction  
20 or with someone else signing her name.

21 MR. KRAVITZ: What's the date on that  
22 letter?



1 THE WITNESS: September 21, 1993.

2 MR. KRAVITZ: My Bates stamp letters are  
3 off. Is this the one where it says your signature?  
4 Obviously appears to be written by someone else.

5 THE WITNESS: Yes.

6 BY MR. CHERTOFF:

7 Q Have you had a chance to review the letter?

8 A Yes.

9 Q Now, did you actually dictate that letter  
10 from San Antonio?

11 A Michael and I discussed this letter and I  
12 think Michael may have actually called back and  
13 dictated the letter. Because the letter -- and I say  
14 that, I don't remember specifically which one of us  
15 called and dictated it but it was typed by Michael's  
16 secretary. It is her initials on the letter.

17 Q Now, when you with came back to Little  
18 Rock, did you learn that there was a memorandum that  
19 had been sent to the director of the FBI from  
20 Mr. Keeney, with a copy to Michael Johnson?

21 A I don't remember that.

22 Q Did Mr. --

1 A I may have known it at the time. I  
2 don't -- I don't specifically know what you are  
3 referring to right now. Maybe if I could see it, it  
4 would help me to remember.

5 Q I am going to show you what has been marked  
6 as Exhibits 5169 through 5171. It is a letter dated  
7 September 21, 1993 from John Keeney to the director  
8 of the FBI with a cc to Michael Johnson. It says  
9 "USA, Little Rock, Arkansas."

10 MR. CHERTOFF: Can I have this back?

11 MR. FISHMAN: In case she needs to refer to  
12 it.

13 THE WITNESS: Mr. Chertoff, I am sure that  
14 I -- if Michael had this, I probably saw it at the  
15 time. I honestly don't remember this memorandum.

16 BY MR. CHERTOFF:

17 Q Did you know as of September 24, when you  
18 met with the FBI, that Mr. Hale had made very  
19 specific allegations concerning misconduct by both  
20 Governor Tucker and Mr. Clinton?

21 A By September the 24th, I had been visited  
22 by those reporters. I had talked with Michael and

1 Michael had talked with people in Washington. I may  
2 have known that. I know that at that meeting on  
3 September the 24th, we specifically discussed my  
4 recusal from that investigation.

5 Q Who was present at the meeting on the 24th?

6 A Michael Johnson, Fletcher Jackson and me  
7 from my office; Don Whitehead, who was the ASAC of --  
8 the FBI ASAC; Steve Irons, who was the special agent  
9 in charge of the 3 squad; David Reign, who was the  
10 agent investigating the Hale matter, and a woman who  
11 was a financial analyst for the FBI. Her first name  
12 is Gretchen and I have forgotten her last name.

13 Q What was the nature of the discussion?

14 A My recollection is that the FBI had  
15 called -- someone, either Steve or Don had called  
16 Michael and asked about having a meeting, because  
17 there was some disagreement about the way the case  
18 was proceeding, some problem or perceived problem  
19 between the agents and Fletcher and the way the  
20 investigation was being conducted.

21 Q Did the agents indicate during the meeting  
22 that they felt that Mr. Jackson was limiting the

1 investigation?

2 A I believe that that was the nature of the  
3 discussion, yes.

4 Q What kind of limitations were they  
5 complaining about?

6 A I don't remember the entire meeting. I do  
7 recall that there were subpoenas outstanding to the  
8 RTC that the FBI -- this generally, that the FBI  
9 wanted to get as much information -- they wanted to  
10 get all the information so they could review it.  
11 They wanted to review the records. I think that  
12 Fletcher had told the people at the RTC that they  
13 didn't have to comply with all of the subpoenas, that  
14 he was looking for some very specific things, that  
15 was all he was interested in having.

16 And I think that was the construction of  
17 the problem.

18 Q Was there also a discussion of your  
19 recusing yourself?

20 A Yes, we discussed that.

21 Q Now at this point, you were aware of the  
22 fact that a subject of this investigation was

1 Governor Tucker?

2 A I was either aware that he was -- I am not  
3 sure I was aware that he was a subject. I think I  
4 was more aware that he was a possibility. I am not  
5 sure that we had anything concrete at that point but  
6 I don't remember that for sure. But I know that we  
7 talked about my recusal and we talked about the fact  
8 that I would be recusing because of Governor Tucker.

9 Q Did you also have an understanding at this  
10 point that there were allegations concerning  
11 President Clinton and a small business investment  
12 loan to Susan McDougal?

13 A I may have. I don't remember that  
14 specifically. I know that there were allegations off  
15 and on concerning the President, but I don't remember  
16 that specific allegation.

17 Q At this -- were there also allegations  
18 involving Steven Smith?

19 A Yes, there were.

20 Q Who is Steven Smith?

21 A Steven Smith is a professor at the  
22 University of Arkansas in Fayetteville,

1 communications professor, I believe.

2 Q Is he someone that you know?

3 A He was an acquaintance of mine.

4 Q An acquaintance or friend?

5 A An acquaintance.

6 Q Was his involvement in the case as a  
7 possible subject another ground for recusal that was  
8 discussed?

9 A Yes, it was.

10 Q What was the position that the FBI took on  
11 the recusal?

12 A Their position? I don't recall that they  
13 had a position. I just know that we -- we discussed  
14 recusal, I am not sure that -- I don't believe that  
15 that was the first time I had discussed that with the  
16 FBI. I had seen too much of Steve Irons and Don  
17 Whitehead during my first month there to think that  
18 that was the first time we talked about it.

19 Q Do you think on earlier occasions they  
20 talked about recusing yourself?

21 A I think on earlier occasions I may have  
22 told them if the investigation actually reached a

1 point where there was information to indicate that's  
2 where it was going, that I would have to recuse.

3 Q And on the 24th, did they say to you that  
4 they believed the investigation reached a point where  
5 it look like it was headed towards Governor Tucker?

6 A I don't remember specifically that they  
7 said that. I just remember that we talked about --  
8 about my recusal, and we talked about the timing of a  
9 recusal.

10 Q What was the issue of timing of a recusal?

11 A The issue of timing of a recusal was that  
12 Michael felt very strongly that -- that they  
13 should -- that the office, he, the FBI, whomever,  
14 should evaluate the information, that they had to  
15 determine whether there were -- whether there were  
16 any substantive allegations there, in order to make a  
17 decision about whether to recuse.

18 Q Had you discussed with Mr. Johnson the  
19 nature of your connections and association with  
20 Governor Tucker?

21 A I am sure I did.

22 Q Do you have a specific recollection -- did

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1 you ever sit down with him and say look, Michael,  
2 let's discuss whether I have to recuse myself, here  
3 is what the nature of my association with Tucker was?

4 A No, I didn't need to discussion whether I  
5 had to recuse, I knew I had to recuse. The only  
6 issue was when I was going to recuse.

7 Q On September 24 did you indicate to the  
8 people in the meeting that you needed to recuse  
9 yourself from this investigation?

10 A I did.

11 Q What was the reason you gave?

12 A I don't recall specifically, but it was  
13 just the nature of my relationship, the fact that I  
14 knew those people.

15 Q Did you understand at that point that the  
16 investigation had progressed to the point that there  
17 was a real possibility that Governor Tucker would be  
18 a subject of the investigation?

19 A I knew that at some point in time, but I'm  
20 not -- sure specifically at what -- on what date I  
21 knew that. I don't know whether that was September  
22 the 24th, or earlier than September the 24th or later



1 than September the 24th. I just don't remember.

2 Q Now, as of the time there was this meeting  
3 on September 24th, were you also aware that Mr. Hale,  
4 Mr. Hale's attorneys had -- Mr. Hale's attorney had  
5 publicly voiced complaints about the fact that he was  
6 not willing to deal with the Little Rock U.S.  
7 Attorney's Office?

8 MR. FISHMAN: What do you mean by  
9 "publicly"?

10 BY MR. CHERTOFF:

11 Q In the media or in any other way that was  
12 disseminated publicly?

13 A There was a newspaper article, based on an  
14 interview that David Hale gave to the Arkansas  
15 Democrat, which is a statewide newspaper. That  
16 article appeared on the morning of Thursday the 23rd,  
17 the day the indictments were returned. I don't know  
18 specifically whether that article included that  
19 information or not.

20 I know that Randy Coleman has -- I know  
21 that that was his -- that was something that he  
22 said. I mean, I recollect that.

1 Q I am going to show you what has been marked  
2 as Exhibit 7763 through 7765 and ask you to take a  
3 look at this and see if this is a September 23  
4 newspaper article regarding this interview by -- with  
5 David Hale, and specifically look at page 2 in the  
6 middle column to see whether that's the reference to  
7 his dissatisfaction with his plea discussions with  
8 the Little Rock U.S. Attorney's Office.

9 A I'm sorry, could you direct me again on the  
10 second page.

11 Q Middle column, second page.

12 MR. FISHMAN: You don't have any objection  
13 if she reads the whole article, do you?

14 MR. CHERTOFF: If she wants.

15 Now, as of the --

16 MR. FISHMAN: I am not sure what the  
17 question is.

18 THE WITNESS: I see the statement you are  
19 referring to.

20 BY MR. CHERTOFF:

21 Q Is this the article that you made reference  
22 to earlier that made you aware of the fact that

1 Mr. Hale was raising questions about whether the  
2 Little Rock U.S. Attorney's Office was conducting  
3 itself fairly in dealing with these plea  
4 negotiations?

5 A I don't know that this was the first time  
6 but certainly that is included in this article.

7 Q So you were aware of that by the meeting of  
8 September 24th?

9 A Yes.

10 Q Did you tell the FBI and the people present  
11 you would recuse yourself?

12 A Yes.

13 Q What was the timing issue? What were you  
14 waiting for?

15 A The timing issue was what I described to  
16 you earlier, that Michael felt that the allegations  
17 should be reviewed to determine whether there was any  
18 substance or merit to them in order to make a  
19 decision about whether to recuse. My concerns went  
20 beyond that.

21 Q What was your concern?

22 A My concern was that in June of 1993, before

1 I became the U.S. Attorney, that Richard Pence had  
2 received this memorandum from Jack Keeney with regard  
3 to the first referral, in which Mr. Keeney cites that  
4 there was no basis for the U.S. Attorney's Office to  
5 be recused from that investigation. We were dealing  
6 with some of the same issues and the same people.

7 And the only thing that had changed in that  
8 office was me, and I had only been there for a few  
9 weeks and I wanted -- I was concerned about setting  
10 up a recusal situation in which I recused to my first  
11 assistant, and the major investigation and the major  
12 focus of the office, because it is a very small  
13 office, would be this investigation that would take a  
14 lot of resources and I would not be --

15 MR. FISHMAN: I don't think she was done.

16 BY MR. CHERTOFF:

17 Q At this point in time --

18 A I was sort of finished. I was just  
19 concerned that that's the way -- if I recused that  
20 that's what was going to happen.

21 Q At this point, you considered this the  
22 major investigation in your office, as of September

1 24th?

2 A Did I consider it to be that? No,  
3 actually, I didn't.

4 Q Well, I thought you just said a moment ago  
5 you didn't want to recuse yourself because this would  
6 be the major investigation in your office and it  
7 would take a lot of resources?

8 A It would have the potential for being a  
9 major investigation. I mean, obviously it was going  
10 to be a major investigation if it involved political  
11 figures.

12 It could grow into that and in a small  
13 office, one investigation saps a lot of resources.

14 Q But, before September 20th when you got  
15 this call from Mr. Keeney, during the previous week,  
16 previous weeks when you had telephone calls and  
17 letters from Mr. Coleman, isn't it a fact that you  
18 basically let Mr. Johnson run the case?

19 A Yes, I did.

20 Q Why is it that on September 24th, after  
21 Mr. Keeney had asked you to recuse yourself and after  
22 the FBI had raised the issue of recusal with you --

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1 A I'm sorry.

2 Q And the FBI had raised the issue of recusal  
3 with you, that you wanted to stay involved in the  
4 case because it was a major case?

5 A The FBI didn't raise the issue of recusal  
6 with me; I raised the issue with the FBI. I can  
7 answer your question, it is a different situation, to  
8 allow my first assistant to have the authority to run  
9 an investigation, I had confidence in his ability and  
10 I knew that he was experienced, that's very different  
11 than having an investigation going on in the office  
12 where -- that I am not a part of, I have no -- no  
13 advice or role in allocating resources, because I am  
14 in a position where I -- where I couldn't question  
15 how many assistants needed to be assigned to it, how  
16 many support staff needed to be assigned to it.

17 It would be totally out of my control. And  
18 I would be left trying to run an office with whatever  
19 was left over. I would never be able to question  
20 what was being allocated to that.

21 Q I need to get that back.

22 The newspaper article that we just looked

1 at on September 23rd, and other press before  
2 September 24th, have publicly indicated that Mr. Hale  
3 was making allegations against Governor Tucker;  
4 correct?

5 A I'm sorry, I don't know what other press  
6 before September the 24th you are referring to. I  
7 only know about this article.

8 Q This article in the Arkansas  
9 Democrat-Gazette had raised -- had publicly raised  
10 allegations that Mr. Hale had made against Governor  
11 Tucker; correct?

12 A That article did, yes.

13 Q So as of the 24th that -- you were aware  
14 that it was public knowledge that David Hale, who  
15 your office was -- had just indicted and whose case  
16 was in your office, was making allegations involving  
17 a friend of yours, Governor Tucker?

18 A That's correct.

19 Q Did you have discomfort as of the 24th  
20 about how you would feel dealing with Governor  
21 Tucker, with Mrs. Tucker at a time when they would  
22 have to know that your office was involved in

1 investigating them?

2 A I don't recall being concerned about that,  
3 because I was going to great lengths to avoid being  
4 in a situation where I had to deal with them. I had  
5 done that from the time I arrived in the office.

6 Q You decided to avoid dealing with the  
7 Tuckers from the time you arrived in the office?

8 A That's not that difficult to do. But I  
9 just -- I had not seen them. I had not -- I just  
10 hadn't been around them.

11 Q But did you make a decision to start  
12 avoiding them?

13 A I -- I was never faced with that decision,  
14 but I just -- I didn't see them. That was not a  
15 concern. They are not people I would see on an  
16 everyday basis. It was not a --

17 Q Did you have mutual friends?

18 A We have a lot of mutual friends.

19 Q Your husband was involved in politics in  
20 Arkansas?

21 A Only to the extent of donating money  
22 generally.



1 Q Had he been involved in the Tucker  
2 campaign?

3 A No.

4 Q He hadn't done any work in the Tucker  
5 campaign?

6 A No.

7 Q Did he have friends who were involved in  
8 the Tucker campaign?

9 A I am sure he must have.

10 Q Did you have any in your circle of friends  
11 in the town of Little Rock, the size that it is, did  
12 you have a concern about the fact that it was  
13 publicly known that your office was handling a case  
14 in which the defendant was publicly seeking to strike  
15 an agreement so he could cooperate against Governor  
16 Tucker?

17 A In a town -- if I understand your question,  
18 I think that the correct response is this: In a city  
19 the size of Little Rock, a district as small as the  
20 one that I'm in, it is always a problem dealing with  
21 people because there are so many connections. That  
22 is a constant problem. It is just something you deal

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1 with every day.

2 Q What were you waiting for to finally  
3 trigger your recusal?

4 A What was I waiting for?

5 Q Yes, what event were you waiting for?

6 A I was waiting for the RTC referrals. I  
7 guess I was waiting -- I was waiting for the RTC  
8 referrals or for some concrete evidence or for an  
9 agreement with Michael that he thought that it was  
10 time for me to recuse.

11 I became uncomfortable with that, however,  
12 and had decided that I needed to talk to someone at  
13 the Department of Justice, because I disagreed with  
14 Michael about -- I trusted Michael's opinion and I  
15 valued his judgment. I disagreed with him about the  
16 timing of the recusal and thought that I needed to  
17 seek some counsel from someone else.

18 Q Who did you talk to?

19 A Eventually I talked to a number of people,  
20 including Phil Heymann.

21 Q Who is the first person you talked to?

22 A That would have been the meeting in Phil

1 Heymann's office and there were a number of people  
2 present.

3 Q That was in November?

4 A Yes.

5 Q Did you have conversations with someone  
6 between September 24 and the beginning of November  
7 about recusing yourself?

8 A Michael and I discussed it.

9 Q Did you discuss it with anybody in  
10 Washington?

11 A No. I don't believe I did.

12 Q Did you call Deborah Westbrook?

13 A Deborah Westbrook and I talked in September  
14 and October of 1993. But I don't remember discussing  
15 that with her. I may have. I talked with Deborah  
16 Westbrook in Annapolis in early November of 1993.

17 Q Did you come to learn in October that the  
18 director of the FBI had expressed the view that you  
19 should recuse yourself?

20 A I learned that when my deposition was taken  
21 by the House Banking Committee in September of 1995.

22 Q Did you tell the -- any of the agents in

1 either the meeting on the 24th of September or in the  
2 next few days thereafter that you were not going to  
3 recuse yourself until there was actually a case  
4 against your friends?

5 A I don't remember saying that to anyone,  
6 no.

7 MR. FISHMAN: In those words, you mean?

8 MR. CHERTOFF: In substance.

9 THE WITNESS: No, not even in substance.

10 There was never a question of whether I was  
11 going to recuse. I was going to recuse. It was a  
12 question of when I was going to do it. Michael and I  
13 disagreed about that. And I was looking for advice  
14 from someone else, about the matter of some guidance  
15 about how to go about that.

16 BY MR. CHERTOFF:

17 Q You don't have a recollection of talking to  
18 Ms. Westbrook about recusal in October?

19 A I talk to -- I know that I talked to  
20 Ms. Westbrook in September and October and I saw her  
21 in Annapolis at my orientation meeting. I just don't  
22 specifically recall discussing recusal or if we

1 discussed it, what exactly it was about.

2 It was very much on my mind, however, so it  
3 is likely that we did talk about it.

4 Q Who is John Flake?

5 A John Flake is a real estate developer in  
6 Little Rock.

7 Q Do you know him?

8 A I do. He is the landlord of the office,  
9 private office space where the U.S. Attorney's Office  
10 is now located.

11 Q Do you know him socially?

12 A No.

13 Q Are you a friend of his?

14 A No. I would say an acquaintance.

15 Q Did there come a point in time that you  
16 became aware that Mr. Flake's name had come up in one  
17 of the referrals that was anticipated from the RTC?

18 A I had forgotten it until you just mentioned  
19 it but yes, that was also a concern I had.

20 Q Why was that a concern?

21 A Just because he was the landlord of the  
22 U.S. Attorney's office.

1 Q Other than the fact that he was the  
2 landlord of the U.S. Attorney's Office, did you have  
3 a concern because you knew him personally?

4 A No. I didn't know him that well.

5 Q Did you call him in September of 1993?

6 A Did I call John Flake?

7 Q Yes, the end of September.

8 A I may have called him, but not about this.  
9 Our office moved the 1st of October, or the Friday,  
10 end of September, whatever the date of that last --  
11 September the 30th or October the 1st and we ran into  
12 problems at the end with various things, including  
13 the carpet and why the management company didn't want  
14 us to move. I may well have called John Flake, I  
15 don't recall talking to him but I may have. And we  
16 had a number of other problems once we moved in, so I  
17 know I did talk to him about some landlord/tenants  
18 problems --

19 Q Mr. Flake?

20 A -- during the fall of 1993, yes.

21 Q Was it before you moved in?

22 A I don't specifically recall talking to him

1 before I moved in. I dealt with the woman who  
2 actually managed that -- the building that we're in,  
3 but we were having a very frustrating time. I may  
4 have well placed a call to him, I may have talked to  
5 him. I just don't remember it but all of that was  
6 going on at that point in time.

7 Q What was your telephone -- your direct  
8 telephone number at the office in Little Rock in the  
9 fall of 1993?

10 MR. FISHMAN: Which office?

11 MR. CHERTOFF: Any office you had.

12 MR. FISHMAN: Because they moved in the  
13 middle of the fall.

14 BY MR. CHERTOFF:

15 Q Whatever office you had, what was the  
16 telephone number?

17 A 324-6125.

18 Q And then the second one?

19 A I think was and is my direct line number.

20 324-6125 was the private line in my office, in the  
21 old building when we were in the courthouse; 324-5347  
22 was a sort of semi-private line, the number that we

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1 gave out.

2 Q For incoming calls?

3 A Yes.

4 The -- and after we moved to the new  
5 building, I had another line because we had a new  
6 phone system, and it is 324, I think, 6809.

7 Q Are you familiar with the number 324-5487?

8 A 5487, no, sir.

9 Q Do you know whose line that is?

10 A No.

11 Q Or was rather in 1993?

12 A No, I don't. That may have been a line in  
13 my office. I was only in that office for about six  
14 weeks before we moved. I don't think -- I think that  
15 there were only two lines on my telephone in the old  
16 office.

17 Q Did you come to Washington in October of  
18 1993?

19 A Yes, sir, I did.

20 Q For a wedding?

21 A Yes.

22 Q Was it a wedding of someone who was an



1 employee at the White House?

2 A No, it was not.

3 Q I don't want to put someone's name in the  
4 record for no reason but I need to know if you can  
5 characterize the -- by employment who the person was?

6 MR. FISHMAN: I don't think she'll have a  
7 problem.

8 THE WITNESS: It was a personal friend of  
9 mine, Senator Bumpers's daughter was married October  
10 of 1993 and I returned to Washington for the wedding.

11 BY MR. CHERTOFF:

12 Q And that was in Washington?

13 A Yes.

14 Q Did you come with anybody else from your  
15 office?

16 A No, I came with my husband.

17 Q Did anybody else from your office attend  
18 the wedding?

19 A From my office?

20 Q Yes.

21 A Brett Bumpers.

22 Q Is that Senator Bumpers's son?

1 A Yes, it is.

2 Q Did he travel out with you?

3 A No.

4 Q Did you make any arrangements in terms of  
5 your trip out to visit the White House?

6 A No.

7 Q Did you make any calls to the White House  
8 in September of 1993?

9 A No.

10 Q Did you make any calls to the White House  
11 in October 1993?

12 A No.

13 Q Did you send a fax to the White House in  
14 September or October of 1993?

15 A I have never sent a fax to the White House.

16 Q Do you know anybody in your office who made  
17 a call to the White House in September 1993?

18 A No.

19 Q Do you know anybody in your office who made  
20 a call to the White House in October 1993?

21 A I do not.

22 Q Do you know anybody in your office who sent

1 a fax to the White House in September or October  
2 1993?

3 A I do not.

4 Q What is your first assistant's fax number,  
5 I mean phone number?

6 A His telephone number now is --

7 Q I'm sorry, what was it back in September of  
8 '93?

9 A I don't know.

10 Q Okay.

11 MR. FISHMAN: Off the record.

12 (Discussion off the record.)

13 BY MR. CHERTOFF:

14 Q So you -- having indicated you were going  
15 to recuse yourself on September 24th, you did not  
16 recuse yourself for the balance of September;  
17 correct?

18 A That's correct.

19 Q Did you recuse yourself in October?

20 A No, I did not.

21 Q Were you aware of developments in the case  
22 against David Hale in October?

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1 A Developments in the case against David  
2 Hale?

3 Q Yes, or in the investigations relating to  
4 David Hale.

5 A No.

6 Q Were you aware of the developments in the  
7 investigation of Madison Guaranty in October?

8 A No.

9 Q Well, how -- what was your -- what was the  
10 manner that you intended to use to signal when you  
11 ought to trigger your recusal?

12 A We were expecting referrals from the RTC.

13 Q And you were going to peg your recusal to  
14 the receipt of the referrals?

15 A It seemed to me to be a good, concrete,  
16 objective piece of information to peg a recusal on.

17 Q Were you going to look at the referrals and  
18 decide whether you would recuse yourself?

19 A I already knew I was going to recuse  
20 myself.

21 Q So as soon as the referrals --

22 A If there was a case against -- if there was

1 a case against Tucker or Steve Smith, that's what I  
2 was going to do. And I expected those referrals to  
3 give me that.

4 Q How were you going to determine if there  
5 was a case in the referrals, you were going to look  
6 at the referrals?

7 A Well, this is the -- this is the discussion  
8 that Michael Johnson and I were having during those  
9 weeks about the evaluation of allegations to  
10 determine whether there was any substance. That was  
11 going on during that period of time.

12 Q What was the discussion you were having,  
13 how were you going to decide when to finally pull the  
14 plug and recuse yourself?

15 A When I had some -- some piece of  
16 information on which to base that. And in my mind  
17 the referrals would have -- would provide that.

18 Q The mere fact of the referrals coming in?

19 A Yes.

20 Q So you had no intention of looking at the  
21 referrals?

22 A I did look at the referrals.

1 Q And based on looking at the referrals, you  
2 decided to recuse yourself?

3 A I had already decided that if those names  
4 were there, that I was going to recuse, and yes, I  
5 did.

6 Q So when did you get the referrals?

7 A Referrals came to my office somewhere  
8 between mid- to late October, I don't know the  
9 specific day. They did not come, however, on the  
10 date that they are dated. I know they weren't there  
11 that early.

12 Q When they came in late October, did you  
13 read them?

14 A I looked at them.

15 Q Did you decide that now the time had come  
16 to put your recusal in effect?

17 A I know that when the referrals came, I  
18 probably talked with Michael again about the fact  
19 that they were there, that the names were there and I  
20 needed to recuse.

21 Q Did you send a letter in?

22 A No, I did not.

1 Q What were you waiting for?

2 A I was waiting to talk -- I was going to the  
3 orientation in November. I wanted to talk to someone  
4 at the Department of Justice whose opinion I could  
5 also trust, because I trusted Michael's but his  
6 opinion was different than mine. I wanted to consult  
7 with someone.

8 Q Did you talk to Ms. Westbrook at the time  
9 that you received the referrals?

10 A I don't remember specifically when I talked  
11 to her.

12 Q Did you consider calling Mr. Keeney back in  
13 October?

14 A I may have -- no, I don't believe I  
15 considered calling Mr. Keeney.

16 Q Why not?

17 A My first conversation with him had not been  
18 very pleasant and I didn't really feel he had given  
19 me very good advice. I wanted to talk to somebody  
20 else.

21 Q What was the advice he had given you that  
22 you didn't feel was very good?

1 A That I should recuse on the basis of an  
2 anonymous telephone call.

3 Q Did you call Mr. Heymann in October?

4 A I didn't know Mr. Heymann in October.

5 Q Did you call -- I'm sorry. Go --

6 A My problem was that I only knew a couple of  
7 people at the Department of Justice. I knew Tony  
8 Moscato probably the best, although we had never met  
9 face to face at that point I believe. I had had an  
10 interview with Janet Reno. I had called Tony earlier  
11 for advice and had gotten the impression that he  
12 felt -- didn't feel comfortable giving me that kind  
13 of advice. And I had decided that when I went to my  
14 orientation in Annapolis I should be able, sort of  
15 face to face, to find someone and evaluate whether I  
16 could trust them and their judgment -- that I would  
17 have an opportunity during that period of time to  
18 talk to someone. I knew that there would be a -- a  
19 parade of people from the various offices who would  
20 be making presentations to us.

21 Q Do you know Seth Ward?

22 A I do not.



1 Q Do you know -- do you have any relationship  
2 with someone who was either related to Seth Ward or a  
3 good friend of Seth Ward?

4 A No.

5 Q Do you know who Seth Ward is?

6 A He is Web Hubbell's father-in-law.

7 Q Other than knowing that from the  
8 newspapers, did you know that in 1993 when you were  
9 U.S. Attorney in Arkansas?

10 A I knew that.

11 Q Had you ever met Mr. Ward?

12 A I have never met him.

13 Q Did you have any friends who ever talked to  
14 you about Mr. Ward?

15 A No.

16 Q Was there anything about Mr. Ward's  
17 being -- Mr. Ward being mentioned in referrals that  
18 you viewed as a grounds to recuse yourself?

19 A No, that would not have been a ground for  
20 me to recuse myself, but it was certainly something  
21 that the Department needed to be aware of.

22 Q What did the Department need to be made

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1 aware of?

2 A That he was Web Hubbell's father-in-law.

3 Q When do you first recall getting the  
4 additional referrals?

5 A It was -- I believe that was sometime after  
6 I returned from the wedding in Washington. The  
7 wedding was in the middle of October. Sometime  
8 between then and the end of October. And I recall --  
9 I also recall that the referrals did not arrive in my  
10 office. I think that the RTC attempted to mail them  
11 to us, but to the wrong address. We had just moved  
12 or there was -- I know there was some problem in  
13 receiving them which is one of the reasons they were  
14 so late, we were so late getting them.

15 Q Now, did there come a time in late October,  
16 the latter half of October, that you wrote a letter  
17 to Jean Lewis regarding the initial criminal referral  
18 which you had seen in late August of 1993?

19 A Yes.

20 Q And how did you come to write that letter?

21 A I wrote that letter because Deborah  
22 Westbrook or Donna Henneman asked me to write it.

1 Q Did they tell you what to write?

2 A No.

3 Q What did they ask you to do?

4 A They asked me to let her know what happened  
5 to the first referral because she was calling the  
6 office -- she had made a number of telephone calls  
7 trying to understand what happened to that referral.

8 Q Did you ask why they wanted you to let her  
9 know?

10 A I don't recall the specific discussions we  
11 had. I know there were several conversations and I  
12 know that for a long time I thought Deborah Westbrook  
13 was the person that I had talked to. Deborah later  
14 told me it was not her, that it was Donna, so I am  
15 not even sure at this point which of the two of them  
16 it was; I had never met either one of them, they were  
17 just voices on the telephone.

18 Q Did you review the referral after you got a  
19 call from legal counsel's office?

20 A Yes, I know I did because I pulled it back  
21 out and that was when I looked at the memorandum from  
22 John Keeney -- Jack Keeney that was on the front and

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1 realized that he had deferred the decision back to  
2 Little Rock. It was the first time I realized that  
3 actually nobody had ever done anything with that  
4 referral.

5 Q And so what did you do?

6 A I wrote the letter to Jean Lewis.

7 Q Did you make a determination that the  
8 referral ought to be closed or declined?

9 A I made whatever decision is reflected in  
10 that letter.

11 Q Well, when you pulled the referral, you saw  
12 that the referral, in fact, had not been acted upon  
13 in Washington but had been returned to Little Rock  
14 for purposes of a final decision; correct?

15 A No, that's not the way I look at it. I --  
16 my view of that at the time was that it had been  
17 acted upon in the sense that it had been reviewed and  
18 that the opinion of the Department was it was not a  
19 good referral and should not be prosecuted. But that  
20 that decision had never been relayed to the RTC.

21 Q Didn't the memo actually indicate that  
22 although there would be no objection if the Little

1 Rock office declined prosecution, it was to be a  
2 decision left in the hands of the Little Rock U.S.  
3 Attorney's office?

4 A That's what -- that was -- after I pulled  
5 Keeney's memo back out that was what I saw in his  
6 memo.

7 Q So you understood?

8 A Would not question the decision to decline,  
9 but there is no reason for the office to be recused.

10 Q So it became your decision; right?

11 A Yes.

12 Q Now, you knew as of this point, in the  
13 latter part of October 1993, that there were  
14 additional referrals that, if they hadn't already  
15 arrived, were very shortly to arrive that also  
16 related to Madison; correct?

17 A Correct.

18 Q And you knew from Mr. Jackson's discussions  
19 that there might be some connection between the  
20 investigation he was doing in connection with David  
21 Hale and some activities at Madison; correct?

22 A I am not sure exactly what I knew about how

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1 all those matters related. I knew that generally  
2 they were related, that those were the subjects.

3 Q When you look at the referral, the original  
4 referral, you saw Governor Tucker's name in the  
5 referral; right?

6 A Yes.

7 Q Did you consider deferring action on the  
8 first referral until after you had recused yourself  
9 on the other referrals?

10 A What I considered at the time, and maybe in  
11 retrospect it wasn't a good decision, but what I  
12 considered at the time was it was just housekeeping  
13 detail. My understanding was that Jean Lewis needed  
14 some answer to sort of close her books, or make a  
15 reflection in her records about that referral, and I  
16 was giving it to her.

17 I was not something that I considered to  
18 be terribly important in the scheme of things,  
19 because a decision about what to do with the first  
20 referral could always be undone or redone, and those  
21 other -- the other subsequent referrals that came in  
22 from the RTC dealt with the same things and the

1 matter was being investigated.

2 Q So what --

3 A It was just a question of closing the books  
4 on that particular referral.

5 Q So why did you take action to close the  
6 books on it?

7 A Because, in my opinion, the books had  
8 already been closed on it. It was just a matter of  
9 relating that decision to her.

10 Q But as of the end of October, you knew  
11 that -- you had decided that on any case involving  
12 Tucker you would have to recuse yourself; right?

13 A As of the day I walked into that office I  
14 knew that.

15 Q This referral had Tucker talked about;  
16 correct?

17 A That's correct.

18 Q You knew that additional referrals were  
19 coming that might also involve Tucker; correct?

20 A That's correct, were coming or were there.

21 Q And so you were within, to your knowledge,  
22 at least within a matter of days of concluding you

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1 would have to recuse yourself; correct?

2 A I had already decided I was going to recuse  
3 myself, it was just a question of the time.

4 Q It was just actually doing it?

5 A Yes.

6 Q Why did you decide you wanted to get this  
7 letter out before you recused yourself?

8 MR. KRAVITZ: I think she's already  
9 answered that question, Mike.

10 THE WITNESS: I got the letter -- I sent  
11 the letter because I was asked to send the letter.  
12 Had it not been for the fact that either Donna or  
13 Deborah asked me to send it I never would have pulled  
14 the first referral out or even looked at it again.

15 BY MR. CHERTOFF:

16 Q Did --

17 A I regarded it simply as being a  
18 housekeeping detail. It was my understanding it was  
19 something Jean Lewis needed so she could show what  
20 happened to her first referral and either Donna or  
21 Deborah wanted me to do it so she would stop calling  
22 them.



1 Q Did Donna or Deborah -- in your discussion  
2 with Donna or Deborah, did you indicate you had a  
3 recusal issue involving Tucker?

4 A I don't -- I think I said before that I  
5 know that I talked to them several times. And I feel  
6 sure that I must have discussed recusal with Deborah  
7 at some point but I don't recall specifically. I can  
8 also tell you, however, that had it not been for the  
9 memorandum from the fraud -- that was done by the  
10 attorney in the fraud section, and the memorandum  
11 from Jack Keeney, I never would have sent that  
12 letter. I certainly would have never made that  
13 decision.

14 Q Did you hold on to the letter after you  
15 wrote it, before you sent it?

16 A I draft -- I know that I have drafted the  
17 letter, and I asked Michael to look at it before I  
18 sent it and I know there is one copy that's earlier,  
19 probably the copy that I printed off for Michael.

20 Q Why did you ask him to look at it?

21 A Because I trusted his judgment and he was  
22 my first assistant.

1 Q But if it was a housekeeping matter,  
2 literally just closing the books on something, why  
3 was it something you needed to run by your first  
4 assistant?

5 A It was a housekeeping matter about a case I  
6 had asked him specifically to watch over and take  
7 care of, and about a case that I knew had the  
8 potential for headlines and media attention.

9 MR. KRAVITZ: Mike, when we could take a  
10 break, I would appreciate one.

11 MR. CHERTOFF: I have about five minutes.  
12 We will take it when I am done.

13 BY MR. CHERTOFF:

14 Q As of the time you left to go to the  
15 conference in Annapolis --

16 A Yes.

17 Q -- you had not yet actually put your  
18 recusal in effect; right?

19 A That's correct.

20 Q But it is fair to say for a couple of weeks  
21 you had been intending to recuse yourself? You had  
22 been expecting that you would be recusing yourself?

1 A I knew I was going to recuse, yes.

2 Q And you were waiting until the trip to  
3 Annapolis, for what reason?

4 MR. FISHMAN: Didn't she testify to that?

5 MR. KRAVITZ: I think a couple of times.

6 THE WITNESS: Michael and I had a  
7 difference of opinion about the timing of recusal. I  
8 thought that I should recuse immediately, Michael  
9 wanted an opportunity to evaluate whatever referrals  
10 came in and whatever information we had to determine  
11 whether there was any substance.

12 His feeling, I think, at least my  
13 recollection is that his feeling was if the -- if  
14 there was no merit to the allegations, then there was  
15 nothing to recuse from. We just had a difference of  
16 opinion about the timing.

17 BY MR. CHERTOFF:

18 Q Did you come to meet with Mr. Heymann when  
19 you were on your trip back east?

20 A That was -- I did eventually meet with him,  
21 yes.

22 Q And before you had that meeting, did you

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1 have a discussion with Mr. Johnson?

2 A I did.

3 Q What was the discussion?

4 A I called Michael to get him to -- well, I  
5 had been -- I'm sorry, let me back up.

6 I was in Annapolis and someone from the  
7 executive office related a message to me that I was  
8 expected for a meeting at Mr. Heymann's office the  
9 following day -- I believe that it was the following  
10 day -- and I called Michael to get him to brief me on  
11 what those referrals were about because I knew that  
12 was what the meeting was about and I didn't know  
13 enough about the referrals to conduct an intelligent  
14 conversation about them.

15 Q This was a meeting that was set up by  
16 Mr. Heymann?

17 A It was set up in Mr. Heymann's office, I  
18 don't know who called the office or made the  
19 arrangements.

20 Q You didn't call the meeting?

21 A No, I did not call the meeting.

22 Q Until you heard about the meeting had you

1 had an opportunity to talk to anybody at the  
2 conference about this recusal issue you were  
3 concerned about?

4 A I had talked to a woman who was a liaison  
5 with RTC or on RTC matters. I had talked to Deborah  
6 Westbrook; I don't recall that I specifically talked  
7 about recusal. I know that the information about the  
8 meeting was related to me almost immediately, it sort  
9 of took away the need to find anybody else. If you  
10 can talk to the Deputy Attorney General, that's about  
11 as good as it gets.

12 Q What did Mr. Johnson say to you in his  
13 briefing?

14 A I don't recall specifically, I just know  
15 that I called and talked to him. I asked him about  
16 the referrals. I made some notes about the referrals  
17 so I would remember, and I know that I know that  
18 Michael -- I know that Michael would read it related  
19 his advice about the Department, and in retrospect I  
20 realized -- and I think I have said this before --  
21 that part of Michael's point of view had to do with  
22 the fact that Little Rock is a small U.S. Attorney's

1 office, and there's always this tension about the  
2 Department sort of usurping big investigations and he  
3 said some concern about that.

4 MR. CHERTOFF: Excuse me just a minute.  
5 (Pause.)

6 BY MR. CHERTOFF:

7 Q When you went to the meeting with  
8 Mr. Heymann, who else was there?

9 A Irv Nathan, Joanne Harris, Jack Keeney,  
10 Tony Moscato. And there were a number of other  
11 people there, but I don't -- I don't know them. I  
12 know there was someone there from, I believe, public  
13 integrity.

14 Q What was the discussion?

15 A The discussion was about the referrals that  
16 we had received, and about the issue of recusal.

17 Q By this point you had been briefed on the  
18 referrals?

19 A By Michael.

20 Q Had you seen the additional referrals  
21 before you went east?

22 A I saw them. They were in the office before

1 I left to go to Annapolis.

2 Q And what did -- tell us who said what, as  
3 best as you can recall, in the conversation in  
4 Mr. Heymann's office.

5 A It is almost impossible to do it at this  
6 point, but we talked briefly about the referrals and  
7 the substance of the referrals, about who the various  
8 people were who were named in the referrals. There  
9 seemed to be some general -- generally, the  
10 discussion was about my recusing, because the  
11 Clintons were named in the referrals, which was an  
12 issue that I hadn't really considered, because I knew  
13 I was recusing because of Governor Tucker, so I had  
14 never reached that point.

15 When I said that I would have to -- they  
16 were discussing whether I should recuse, and I said I  
17 would -- of course I was going to recuse because of  
18 Governor Tucker, the decision then turned -- the  
19 discussion then turned to the timing of that recusal,  
20 when it should take place, and the general consensus  
21 among those present was if you are going to recuse,  
22 the time is now. There was not much support for

1 Michael's position about the timing of recusal.

2 Q And what did you say?

3 A I don't remember specifically what I said.

4 Q Did you acquiesce in the recommendation  
5 that you recuse yourself now or did you argue you  
6 should continue on for a while?

7 A I argued Michael's point of view for a bit  
8 sort of as an advocate for my office, at some point  
9 during that discussion I -- I sort of got my back up  
10 a bit, by the tenor of some of the remarks that were  
11 made. Did not take too kindly to them.

12 The meeting ended without a resolution of  
13 that issue. We stayed -- there was some -- there was  
14 some discussion -- I raised the issue of the fact  
15 that there was information leaking from the RTC and I  
16 had a lot of concern about that, because I think it  
17 is very difficult to conduct an investigation with  
18 that kind of scrutiny, and I was concerned about it  
19 and concerned about whether there was anything that  
20 could be done about that. That was another thing we  
21 discussed during that meeting.

22 I discussed -- I had some concerns about



1 the involvement of public affairs in dealing with the  
2 media. A Carl Stern came upstairs after the meeting  
3 broke up, Joanne Harris and Irv Nathan and I stayed  
4 and talked with Carl for a bit about dealing with the  
5 press.

6 Q What was your complaint about public  
7 affairs?

8 A I don't know that I had a complaint about  
9 public affairs at the time, but my concern was I had  
10 started to get telephone calls, there was an article  
11 that appeared I think around Halloween, it was in the  
12 Washington Post and in the Arkansas Democrat on the  
13 same day. And so I had started to get a lot of  
14 attention from the press about the matter.

15 Q When you left -- how was the meeting left  
16 with Mr. Heymann? How did things conclude in that  
17 meeting?

18 A Oh, it -- my recollection is it concluded  
19 with I will think over your point of view and get  
20 back to you.

21 Q In that meeting you still did not agree to  
22 recuse yourself then and there?

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1 A No, I didn't.

2 Q Were you pressed to do it then and there?

3 A Oh, I wasn't -- the general consensus of  
4 the meeting was that I should recuse. But I mean,  
5 that was my consensus as well. But I can tell you  
6 specifically there was a man at the meeting who said  
7 something that made me angry.

8 Q What was that?

9 A I don't remember specifically what he said.

10 Q Generally.

11 A About the issue of the timing of the  
12 recusal, and I felt that he was being very  
13 patronizing to me.

14 Q Was there anybody in the meeting beside  
15 yourself who argued that you should hold your  
16 recusal, continue to hold your recusal in abeyance  
17 until something else happened?

18 A I don't remember specifically that anybody  
19 did that.

20 Q Everybody basically said get out now?

21 A We -- well, I don't know that everybody --  
22 they didn't poll -- we didn't take a poll of the

1 people present. I know -- my recollection two years  
2 later is that was the general conversation. I had  
3 some real concerns that, because at this point in  
4 time the plea offer to David Hale -- there was an  
5 outstanding plea offer still contingent upon him  
6 taking that first step of proffering his testimony,  
7 which he still had not done. In fact, he never even  
8 discussed it seriously at that point.

9 And I had some real concerns about -- I  
10 know we discussed -- we discussed the possible  
11 repercussions of a recusal, with that -- with -- I  
12 had some concerns about whether during the rest of  
13 the time I was U.S. Attorney every time there was a  
14 difficult case or someone who had ever met Bill  
15 Clinton, which would be about 2 million people in the  
16 state of Arkansas, that the response would be to say  
17 the President's name in an attempt to try to buy time  
18 or to work their way out of an indictment.

19 That was going on, that also was a part of  
20 that conversation.

21 Q Was this argument you were raising to  
22 suggest you shouldn't recuse yourself at all?

1 A No, it wasn't -- no. I never argued the  
2 fact that I needed to recuse. I knew I needed to  
3 recuse.

4 Q So I guess the question is why even at this  
5 point with the Deputy Attorney General of the United  
6 States saying, recuse yourself now, were you still  
7 trying to hang on?

8 A I'm sorry, we are talking -- I am probably  
9 not making myself very clear and this sort of starts  
10 coming back as I talk about it and remember what  
11 happened during the course of the meeting. We are  
12 talking about more than one case. The question of  
13 recusing from any matter regarding Mr. Tucker is not  
14 an issue I was going to recuse from. That's where we  
15 deal with the matter of timing with regard to  
16 Mr. Hale. We are still talking about a situation  
17 where I don't have the conflict with Mr. Hale or with  
18 his co-defendants, nor do I have a conflict with the  
19 subject matter of that case. What I have a potential  
20 conflict with is the information that he could  
21 provide if I worked out a cooperation agreement.

22 But we weren't to that point yet because

1 Mr. Hale had still never proffered any information.  
2 He was still stringing us along and claiming he had  
3 information. He was giving it to the press, but he  
4 wouldn't give it to us.

5 Q Did it seem to you that the reason he might  
6 not want to give it to you was because he felt you  
7 had a personal relationship with one of the principal  
8 people he was going to be offering information  
9 against?

10 A But I wasn't asking him to give the  
11 information to me. I had made an offer for him to  
12 proffer it to an FBI agent, which is what he  
13 eventually did.

14 Q After you finally recused yourself?

15 A It was an FBI agent from Little Rock who he  
16 would have proffered it to when I was the U.S.  
17 Attorney.

18 Q After you left the meeting in Washington,  
19 when did you finally say I am going to send in the  
20 letter recusing myself?

21 MR. KRAVITZ: Objection to the form of the  
22 question.

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1 MR. CHERTOFF: You can answer.

2 MR. KRAVITZ: Argumentative and  
3 unnecessarily so.

4 BY MR. CHERTOFF:

5 Q You can still answer.

6 A I don't know that I've actually said that.  
7 I know that before -- I felt the need to call Michael  
8 to tell him that, because I agreed with the general  
9 consensus at the meeting -- that was my point of view  
10 all along -- but I felt an obligation to tell him  
11 that that's what I was going to do.

12 Q And did you send the letter in after you  
13 returned to Little Rock?

14 A No, I did not. I did it while I was at the  
15 Department. We were in Annapolis for I believe  
16 Tuesday and Wednesday of that week. On Thursday we  
17 moved to -- moved into Washington, had meetings at  
18 the Department on Thursday and Friday. And having  
19 made my peace with Michael, and discussed the issue  
20 with them and having told him my decision, I wanted  
21 to deal with it while I was there and have it done  
22 with.

1           We had an offer out to David Hale, and  
2 there was a deadline by which he was to respond. I  
3 think it was that following Monday, maybe -- maybe  
4 the Tuesday of that following week. And so I wanted  
5 to get -- to have the matter recused and settled if  
6 that's what we were going to do. And I don't  
7 remember my exact thinking, but I know all those  
8 things were going on so I did it while I was there in  
9 the executive office.

10       Q   When you got back to Little Rock a few days  
11 later did you have occasion to meet with Mr. Mackay?

12       A   Yes.

13       Q   Did you complain to Mr. Mackay about the  
14 attitude of the Department on the issue of recusal?

15       A   Probably.

16       Q   Do you remember what you said to him?

17       A   No.

18       Q   Am I correct that the -- the Tuesday after  
19 Labor Day was the first time you personally spoke to  
20 Mr. Coleman concerning Mr. Hale?

21       A   I don't remember this specifically, but it  
22 is logical to me that Randy called -- that we spoke

1 on the telephone because I think he must have called  
2 to arrange, have that meeting.

3       Q   But the face-to-face meeting --

4       A   Face-to-face was, I believe, the Tuesday  
5 after Labor Day.

6       Q   Was that September 7th?

7       A   I don't remember.

8       Q   Let me see if I can refresh your memory.

9           Would it refresh your memory if I read you  
10 from the middle of the letter of September 15th to  
11 you from Mr. Coleman where he says "as a result of  
12 Fletcher's position on this matter, with Fletcher's  
13 knowledge I met with you last Tuesday, September 7th,  
14 to discuss the same matter"?

15           Does that refresh your memory?

16       A   Is -- is this my letter to Randy Coleman?

17       Q   No, this is the letter from Randy to you on  
18 September 15th where he says -- well, you know you  
19 met with Mr. Coleman on a Tuesday?

20       A   My recollection is it was the Tuesday after  
21 Labor Day because he had hurt himself playing golf  
22 the day before, that's why I think --



1 MR. FISHMAN: To advance matters, I will  
2 stipulate according to the dates we established, the  
3 17th and the 20th being a Friday and a Monday, that  
4 the 7th must have been a Tuesday.

5 MR. KRAVITZ: We will take Congressional  
6 notice of that.

7 BY MR. CHERTOFF:

8 Q And can we take notice that Labor Day would  
9 have been September 6?

10 MR. FISHMAN: That would be my sense  
11 according to my understanding the way it usually  
12 works.

13 BY MR. CHERTOFF:

14 Q September 7 was the day you had a  
15 face-to-face with Randy Coleman on this issue?

16 A Yes, it was.

17 Q There was a call preceding that in which it  
18 was indicated by Mr. Coleman that he wanted to talk  
19 to you about David Hale?

20 A I believe that there was. I don't recall  
21 that specifically, but I don't know how else that  
22 meeting would have gotten set up.

1 Q Do you remember what time the meeting was?

2 A It was early in the morning, I think.

3 Q About what time?

4 A Maybe 9:00. 10:00.

5 Q How long did it last?

6 A About five minutes.

7 Q 9:00 and about five minutes. Within --  
8 within 10 minutes thereafter, did you call the White  
9 House?

10 A No. I never called the White House in  
11 September or October of 1993.

12 Q Within 10 minutes?

13 A I can tell you the times I called the White  
14 House.

15 Q When?

16 A I called the White House, I believe in June  
17 of 1993, when they were vetting my application -- my  
18 papers for my nomination. I called the White House  
19 in September of -- August or September of 1994, to  
20 ask for a card for my parents' 50th wedding  
21 anniversary. That was the only time I ever called  
22 the White House.

1 Q Did you ask somebody to call the White  
2 House within 10 minutes after Mr. Coleman left the  
3 meeting with you on September 7?

4 A No, absolutely I did not.

5 MR. CHERTOFF: I have nothing further.

6 MR. KRAVITZ: Let's take a break.

7 (Recess.)

8 BY MR. CHERTOFF:

9 Q Ms. Casey, do you have any occasion in 1993  
10 to have telephone conversations with Webster Hubbell?

11 A No.

12 Q Did you have any face-to-face meetings with  
13 him in 1993?

14 A No.

15 Q When -- from the time you came on, in  
16 August, did you hire -- until, let's say October, did  
17 you hire anybody for the office?

18 A No.

19 Q Did you hire any staff?

20 A I hired a law clerk sometime during that  
21 first semester, a law student to work as a law  
22 clerk. She didn't start until Christmas but I must

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1 have done that during this period of time, that's all  
2 I recall.

3 Q Did you hire an assistant during the fall  
4 of 1993?

5 MR. KRAVITZ: An assistant U.S. Attorney.

6 THE WITNESS: No.

7 BY MR. CHERTOFF:

8 Q Did you hire a secretary?

9 A No.

10 Q Was there anybody else in the office that  
11 you knew to be friendly with Governor Tucker or  
12 Mrs. Tucker?

13 A I have an assistant named Sandra Cherry  
14 whose daughter I believe is a friend of the Tuckers'  
15 daughter.

16 Q Anybody other than that?

17 A I don't think so. I mean -- I just don't  
18 recall anybody right now. There may be someone.

19 MR. FISHMAN: Do you have anybody in mind?

20 MR. CHERTOFF: No. Okay. Thanks a lot.

21 (Mr. Chertoff left the room.)

22 MR. KRAVITZ: While you are switching, can

1 I talk to Paul for a minute.

2 (Discussion off the record.)

3 MR. KRAVITZ: I actually want to begin by  
4 making a request on the record of Majority Counsel,  
5 and I guess the record should reflect that Mr. Gicale  
6 is here and taken over for Mr. Chertoff. During the  
7 end of Mr. Chertoff's questioning of Ms. Casey, when  
8 he was asking Ms. Casey about whether she had made  
9 phone calls or a phone call to the White House on  
10 September 7th, 1993 within 10 minutes of the  
11 conclusion of her meeting with Mr. Coleman, it  
12 appeared as if Mr. Chertoff was looking at a document  
13 in his file which he did not show to the witness, and  
14 I would ask if Mr. Gicale would be kind enough to let  
15 me look at that document or at least tell me what it  
16 is.

17 MR. GICALE: I don't have that document. I  
18 don't have that document.

19 MR. KRAVITZ: He took it with him?

20 MR. GICALE: Yes.

21 MR. KRAVITZ: Do you know what it was?

22 MR. GICALE: I can't answer. I don't -- I

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1 did not even see that document.

2 MR. KRAVITZ: Well, that wasn't my  
3 question. I recognize you are not being deposed.

4 MR. GICALE: If you want -- he's left and  
5 you had a question about it and I just -- and I don't  
6 have the document to answer your question, so I mean,  
7 I think it is unfair -- I didn't see it. And I am  
8 not in a position to answer your question but if you  
9 want, if you want him to answer the question I could  
10 take the time to go do it. I don't have it.

11 MR. KRAVITZ: Well, why don't we go ahead.  
12 I mean I just -- let me just say that I think that it  
13 is unfair to be hiding a document from the witness.

14 MR. GICALE: It is not unfair to be hiding  
15 it. Nobody is hiding anything. You had an  
16 opportunity to say something to him before he left,  
17 and for whatever reason, and it was nothing sinister  
18 about it, he took that with him.

19 I would be happy right now, to go up there  
20 right now and talk to him about it. But there is  
21 nothing intentional about this, so I mean if you want  
22 me to do that I will do that, but I don't want any

1 suggestion on the records that anybody is trying to  
2 hide anything. That's just totally improper.

3 MR. KRAVITZ: Well --

4 MR. GICALE: So if you want to go ahead,  
5 fine, but if you want to make an issue of it, we will  
6 stop here.

7 MR. KRAVITZ: Lou, please don't interrupt  
8 me again.

9 MR. GICALE: No, don't interrupt me. Don't  
10 accuse us of trying to hide something when the person  
11 that has the record, you don't confront them  
12 before -- you know he is going to be leaving, he  
13 picked up the file folder with the record, let this  
14 record reflect that, and left.

15 MR. KRAVITZ: Lou, I did not know he was  
16 taking documents. He told me he was leaving and  
17 leaving you in charge of the documents and you are  
18 sitting with three files of documents in front of  
19 you. How did I know he was removing documents?

20 MR. GICALE: Because I told you.

21 MR. KRAVITZ: I asked you if you would tell  
22 us what the document was. If you can sit here and

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1 tell me straight to my face you don't know what the  
2 document is, I will accept that.

3 MR. GICALE: I am not under oath here.

4 MR. KRAVITZ: I recognize that.

5 MR. GICALE: He questioned you about it; I  
6 don't have the record and if you want to question him  
7 about the record, I can go get him.

8 MR. KRAVITZ: Is your answer you don't know  
9 what the document is?

10 MR. GICALE: My answer is the answer I just  
11 gave you.

12 MR. KRAVITZ: Let's go on. Maybe in a  
13 little while we will need to take a break.

14 MR. FISHMAN: Let me say I am sure, out of  
15 an abundance of fairness, in the event there is a  
16 document that should be shown to a witness, that I am  
17 sure that Mr. Gicale will ensure that that take  
18 place.

19 MR. GICALE: What I will ensure, I will  
20 take this up with Mr. Chertoff.

21 MR. FISHMAN: I am not making any  
22 requests. I am sure, given the relationship between



1 the committee and the department so far, that the  
2 committee would show us that courtesy, so I  
3 appreciate Mr. Kravitz's concern for the witness.

4 MR. KRAVITZ: It is really -- my concern is  
5 just for the fairness of this proceeding and for what  
6 I assume its intent to be of getting to the truth  
7 rather than of hiding documents from witnesses.

8 MR. GICALE: Look, no more speeches.

9 MR. KRAVITZ: Excuse me.

10 MR. GICALE: Don't accuse people of hiding  
11 documents. It is unfair to do that.

12 MR. KRAVITZ: Let's take a break. You  
13 continually interrupt me. If you would like --

14 MR. GICALE: You are accusing us of hiding  
15 documents when it is not true. I want to take a  
16 break and resolve this, we will do it right now. You  
17 put this on the record three times. Hiding  
18 documents. That's what you want to keep repeating on  
19 the record. That has not occurred. Now, if you want  
20 to stop, we will stop.

21 MR. KRAVITZ: Lou, I am going to make a  
22 statement for the record. If you would like to make

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1 a statement after I am finished, you may do that.  
2 But I would truly appreciate it if you would stop  
3 interrupting me. You do this in every deposition we  
4 appear in together.

5 MR. GICALE: And you do the same thing in  
6 depositions. I did not interrupt you. You've  
7 repeated this allegation three times. It is  
8 incorrect.

9 MR. KRAVITZ: The record will reflect you  
10 interrupted me but we will let the record reflect  
11 what it reflects.

12 MR. GICALE: Let it reflect.

13 MR. KRAVITZ: My understanding of what we  
14 are all doing is to try to find out what happened. I  
15 think it is inappropriate to ask a witness a request,  
16 when the questioner clearly -- it clearly appears to  
17 be looking at a document and not showing it to the  
18 witness. I made a request to ask what the document  
19 was and you've promised to go try and find out about  
20 that at a break and I think why don't we leave it at  
21 that.

22 If you would like to make another

1 statement, you can. Otherwise I would like to begin  
2 my questioning.

3 MR. GICALE: Go ahead.

4 MR. KRAVITZ: Okay.

5 EXAMINATION

6 BY MR. KRAVITZ:

7 Q Ms. Casey, I apologize for all this but it  
8 is what it is.

9 A That's all right.

10 Q You made a statement earlier in your  
11 deposition that since the time you first dealt with  
12 Mr. Coleman regarding the Hale case, you have learned  
13 that Mr. Coleman was not an experienced criminal  
14 defense lawyer; is that correct?

15 A I don't recall specifically what I said,  
16 but I think that statement is correct. In fact, to  
17 my knowledge, the Hale matter, the Hale case is the  
18 only case that he ever dealt with in my office.

19 Q Well, have you learned anything since  
20 September of 1993, when you first began to deal with  
21 Mr. Coleman, relating to Mr. Hale about Mr. Coleman's  
22 experience as a criminal defense lawyer other than

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1 the fact that that's the only case that he's dealt  
2 with your office on?

3 A That's all I know. Because that is the --  
4 he has never handled another case in my office since  
5 that one. And to my knowledge, he never handled a  
6 case in my office before that one. And I should have  
7 been tipped off by the fact that he was looking for a  
8 misdemeanor, and there are so few misdemeanors in  
9 federal practice, but it just didn't hit me at the  
10 time.

11 Q Now, Mr. Chertoff asked you some questions  
12 indicating that your office's indictment or public  
13 indictment of Mr. Hale in September 1993 would make  
14 Mr. Hale useless as a potential undercover or make  
15 any potential undercover operation that Mr. Hale  
16 might participate in useless; do you remember those  
17 questions?

18 A I remember that line of questioning, yes.

19 Q Now, that indictment, the indictment of  
20 Mr. Hale occurred on September 23rd, 1993; is that  
21 correct?

22 A I believe that's correct, yes.

1 Q Before September 23rd, 1993, you knew that  
2 Mr. Coleman had gone to members of the press with  
3 certain allegations by Mr. Hale; correct?

4 A Yes. My recollection is that the reporters  
5 came to see me on Friday, which I believe was the  
6 17th of September, I am not clear whether they had  
7 interviewed Mr. Hale on Thursday or on the same day  
8 that they came and talked to me, but that had already  
9 happened, yes.

10 Q Now, was it your view that Mr. Coleman's  
11 and Mr. Hale's having gone to the press with  
12 Mr. Hale's allegations, whatever they were, would  
13 have an effect on Mr. Hale's future usefulness as an  
14 undercover operative?

15 A If he had any usefulness, it would have  
16 destroyed it. But I was still in the position of not  
17 having anything from Mr. Hale to evaluate to  
18 determine whether he had any usefulness to begin  
19 with, but certainly that would have ended whatever  
20 usefulness he might have had.

21 Q So by the time that your office obtained  
22 this public indictment on September 23, 1993, in your

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1 view, at least, whatever possible usefulness as an  
2 undercover operative Mr. Hale might otherwise have  
3 had, Coleman had already destroyed that usefulness by  
4 going to the press with Mr. Hale's allegations before  
5 the time of the indictment; isn't that right?

6 A Or Mr. Hale had destroyed it by giving an  
7 interview to the New York Times reporters.

8 Q Okay, and so in your view, the fact that  
9 any indictment obtained would be public was not --  
10 was not going to have any negative effect on any  
11 potential usefulness of Mr. Hale as an undercover  
12 operative?

13 A Certainly by the day that the indictments  
14 were returned, that was true.

15 Q I am going to be jumping around a fair  
16 amount and I apologize for that but I am trying to be  
17 as repetitive as little as possible, so I will try to  
18 focus your attention as I jump around.

19 Mr. Chertoff asked you some questions about  
20 one of Mr. Coleman's letters which indicated that  
21 Mr. Coleman or at least -- in which Mr. Coleman  
22 claimed that he had provided a list of names to your

1 office, names that Mr. Hale could provide information  
2 about; do you remember those questions?

3 A I do.

4 Q Let me show you the letter dated September  
5 21, 1993. I am going to show you again the letter  
6 dated September 21, 1993, from you to Mr. Coleman,  
7 and again, I think you testified previously this is  
8 the letter that was signed by someone on your behalf  
9 while you were in San Antonio.

10 The copy I have is Bates stamp numbered  
11 0051667 and 005168. And I want to direct your  
12 attention to the third paragraph of this letter and  
13 ask you whether that refreshes your memory as to  
14 whether you knew at that time whether in fact  
15 Mr. Coleman had actually provided anyone in your  
16 office with a list of names?

17 A Well, that -- yes, it does. That was my --  
18 that's what I recollect now, was the situation at the  
19 time, that he had made general assertions and  
20 allegations about having information involving  
21 important people but he had never given any specifics  
22 nor had he ever mentioned any names.

1 Q Okay, so the September 21 letter refreshes  
2 your memory that contrary to Mr. Hale's claims in one  
3 of his letters, as of that time, Mr. Hale -- I'm  
4 sorry, Mr. Coleman -- let me start over.

5 The September 21 letter refreshes your  
6 memory that contrary to claims that Mr. Coleman made  
7 in one of his letters, as of September 21,  
8 Mr. Coleman had not provided anyone in your office  
9 with a list of names?

10 A That's correct. And that's why I wanted to  
11 be sure that I memorialized that in a letter so that  
12 his letter wouldn't be the only thing there, because  
13 the statements in his letter are, to the best of my  
14 knowledge, wrong. The statements in my letter are  
15 correct.

16 Q You testified earlier about a meeting with  
17 officials of the FBI Little Rock office on September  
18 24, 1993, and then you also testified about the  
19 meeting in Mr. Heymann's office in early November  
20 1993, and I believe Mr. Chertoff asked you some  
21 questions about whether you recused yourself in the  
22 balance of -- during the balance of September, after



1 the meeting with the FBI office and whether you  
2 recused yourself during October and your answer was  
3 no.

4 My question is this: During that time,  
5 that time period between September 24, 1993, when you  
6 made clear your intention to recuse at an appropriate  
7 time, and the time in early November 1993 when you  
8 affirmatively recused yourself, did you take any  
9 action in the Hale case?

10 A No. I did not. But may I clarify?

11 Q Sure.

12 A In -- on September the 24th, 1993, when I  
13 met with the FBI agents and my first assistant and  
14 Fletcher Jackson, we were discussing the Hale matter  
15 specifically, that's what was -- I mean that -- the  
16 problems with the Hale investigation.

17 I didn't have any reason to recuse from the  
18 Hale matter, because I had -- I didn't have any  
19 conflicts with that. The other issue of recusal  
20 dealt with -- dealt with matters involving other  
21 people, with Governor Tucker or Steve Smith. And  
22 there was nothing there to recuse from at that

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1 point.

2 Q When did your office receive the set of  
3 nine criminals referrals in the Madison case?

4 A Between the -- sometime between the middle  
5 and the end of October. And my recollection, which I  
6 don't know specifically when they came into the  
7 office. In fact, I am not sure that they ever  
8 arrived in the office. I think Fletcher had to go  
9 somewhere and pick them up. He went out to Federal  
10 Express or somewhere to get them, because we not  
11 received them.

12 I -- I am confident that I did not actually  
13 see those referrals until I returned from the wedding  
14 that I attended in Washington in the middle of  
15 October. I am almost certain of that.

16 Q Do you know what the date was of that  
17 wedding?

18 A It was the weekend of October the 15th. I  
19 don't know what the specific dates were.

20 Q My understanding, and I think other  
21 documents -- documents in our record indicate that  
22 the nine criminal referrals were submitted or at

1 least mailed out on October 8, 1993. Does that  
2 refresh your memory as to when your office might have  
3 received them?

4 A I know that the referrals are dated October  
5 the 8th of 1993. I know that the FBI office in  
6 Little Rock had received theirs sometime before we  
7 got ours. I know that -- I think Monday was the  
8 11th, that Monday was a holiday, I know that October  
9 the 12th, Tuesday, was the day that I had a formal  
10 swearing-in ceremony and we had an open house in our  
11 office and I was dealing with that.

12 I know that I was not in the office on  
13 Friday the 15th, because I traveled to Washington on  
14 that day.

15 That's why I'm almost confident that I did  
16 not see those referrals during that week. And that  
17 it was sometime after I returned from Washington.  
18 Now they may have come into the office during that  
19 week while I was gone but I didn't see them.

20 Q As you walk through this, your recollection  
21 is that the first time that you even could have seen  
22 those referrals would have been on October 18th?

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1 A I don't think I was in the office Monday.  
2 I think I didn't return to the office until Tuesday  
3 but I may be wrong about that. Sometime during that  
4 week. And I -- my further recollection is that those  
5 referrals were probably not even in my office. I  
6 know that they had been received by the FBI before we  
7 got them.

8 I am not saying that someone intentionally  
9 didn't send them to us. I think there may simply  
10 have been a problem with the fact that I'd changed  
11 addresses, and if they were Federal Expressed to the  
12 courthouse -- because you can't send things to a post  
13 office box through Federal Express -- we wouldn't  
14 have gotten them because we weren't there.

15 Q What day was it when you formally recused  
16 yourself from these matters? You've testified about  
17 having done that while you were still in Washington  
18 in early November 1993.

19 A It was the first week of November and I  
20 think I spoke with Phil Heymann again on Thursday of  
21 that week down in the executive office and I think I  
22 actually drafted a letter, or had a letter faxed or

1 E-mailed by my secretary up to the Washington -- up  
2 to the executive office in Washington on Friday  
3 morning and took it up to Irv Nathan's office, I  
4 think.

5 Q Was that November 5th?

6 A Yes.

7 Q Between the time that you first became  
8 aware of the arrival in your office of the nine  
9 criminal referrals, whenever that was in October  
10 1993, and November 5th, 1993, did you take any action  
11 relating to those nine referrals?

12 A No, I did not. It would have been  
13 inappropriate for me to do that.

14 Q Now, there is one point related to all this  
15 that I just want to clarify for the record, and your  
16 testimony, obviously, is going to be in the record  
17 exactly as it was. I am just going to paraphrase,  
18 based on my best recollection, a few things that you  
19 said.

20 My recollection is that at one point you  
21 said that you were waiting to enter your formal  
22 recusal for your -- for the referral, the new

1 referrals actually to arrive in your office so that  
2 it could be determined if there was a case against  
3 Tucker or some of the other people who would cause --  
4 would create -- might create a conflict of interest  
5 or an appearance of a conflict for you. Another time  
6 I think you said that you had decided to wait for the  
7 referrals to arrive and that you would recuse  
8 yourself as long as certain names such as  
9 Mr. Tucker's were actually in the referral -- in the  
10 referrals, and I want to be sure that the use of  
11 different language doesn't create any lack of clarity  
12 in the record.

13 Am I correct to understand really the sum  
14 total of what you are saying to mean that as long as  
15 Mr. Tucker was named in the referrals it was your  
16 view that you needed to recuse yourself?

17 A Yes. But I think --

18 MR. FISHMAN: Named how?

19 MR. KRAVITZ: As a target, I'm sorry.

20 THE WITNESS: Yes, but I think probably  
21 I've -- maybe some of this is lost, and of course I  
22 start to remember as we go through these matters, I

1 probably didn't express myself very artfully.

2 We had two separate but related things  
3 going on. One was the Hale prosecution. Mr. Hale  
4 had expressed his view that I should recuse from  
5 that, and he had given information to the press, but  
6 he wouldn't proffer any testimony -- wouldn't proffer  
7 his testimony to an agent, so all I had to recuse  
8 from in the David Hale matter were -- any recusal  
9 would have been based on the information he had given  
10 to the press, which I didn't want to do because I didn't  
11 think that was the way that that should be handled,  
12 and that if he actually had any information and was  
13 serious about cooperating, then he would do the right  
14 thing, which was to proffer it to an agent. That was  
15 one matter.

16 The related but separate matter was the  
17 matter of an investigation of Mr. Tucker, which, of  
18 course, is what Mr. Hale's allegations to the press  
19 were about.

20 If Mr. Hale had given, had proffered a  
21 statement, had proffered his testimony, had given us  
22 anything other than thirdhand reports in the press, I

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1 could have and would have recused much sooner than I  
2 did probably. I still would have had the issue of  
3 dealing with Michael and that difference of opinion,  
4 but once the referrals came in, there was -- I had  
5 something.

6 I still didn't -- at that point, I  
7 didn't -- I never had a proffer from David Hale but  
8 the referrals were something other than a report of  
9 an interview that David Hale had given to the press,  
10 so there was something real there to deal with,  
11 something substantive.

12 BY MR. KRAVITZ:

13 Q I think what is unclear in the record is  
14 with respect to your receipt of the referrals, were  
15 you waiting simply to see that Governor Tucker's name  
16 was in the referrals as a target, or as I think  
17 you've testified Mr. Johnson was suggesting you  
18 should do, that you should wait additional time until  
19 it was determined that allegations against Governor  
20 Tucker were actually legitimate.

21 A Well, I think -- if I understand your  
22 question, Mr. Johnson and I had a difference of



1 opinion about the timing of the recusal.

2 Q And so it was your view that -- as you were  
3 awaiting the arrival of the new criminal referrals in  
4 the Madison case in October 1993, it was your view  
5 that if Governor Tucker was listed as a target, you  
6 would recuse yourself?

7 A That's true. But it wasn't just -- it  
8 wasn't just that I was waiting on the referrals;  
9 that's one thing that could have triggered that.  
10 David Hale actually proffering his testimony so that  
11 we had something to deal with other than a newspaper  
12 report would have done that. If the FBI had come to  
13 me and said we think we have a case, that probably  
14 would have done that. But they were in preliminary  
15 stages and I was letting them conduct their  
16 investigation.

17 Q Okay, I just want to make sure the record  
18 is clear: Your planned recusal from dealing with the  
19 new criminal referrals in the Madison case was not  
20 dependent on any Justice Department or FBI  
21 investigation of those referrals indicating  
22 substantial allegations against Mr. Tucker; they were

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1 dependent upon -- your recusal was dependent on  
2 Mr. Tucker's being named as a target; is that right?

3 A That was my point of view. That's what  
4 Michael and I had the difference of opinion on, but  
5 yes, that's my point of view.

6 Q What I have just stated was your point of  
7 view and Mr. Johnson had a different point of view?

8 A Yes.

9 Q I am going to direct your attention to the  
10 letter that you wrote to Jean Lewis on October 27,  
11 1993. The copy I have has two different Bates stamp  
12 numbers on it, one of them is FBI 1006, the other is  
13 KBK 48. I believe you have been asked questions  
14 about this letter previously?

15 A Yes, sir, on several occasions.

16 Q The last paragraph reads as follows:  
17 "Although I am declining to take further substantive  
18 action on this referral, my decision does not  
19 foreclose future prosecutions about the matters  
20 covered by the referral or related matters in the  
21 event that my office and the FBI are given access to  
22 records or information indicating the prosecutable

1 cases can be made."

2 What was your purpose in including that  
3 paragraph in this October 27, 1993 letter to  
4 Ms. Lewis?

5 A Part of it is just a reflection of the fact  
6 that I considered that letter to be a housekeeping  
7 detail. Part of it is, I think, the anticipation  
8 that other referrals were going to arrive and I  
9 didn't want them to think that there was no reason to  
10 send those if they had something to send, because I  
11 don't think that they were in my office at the time I  
12 wrote that letter. Or if they were in my office I  
13 don't think I had seen them but I am not sure about  
14 that.

15 Q So you think that even as of October 27,  
16 you still had not seen the referrals that were sent  
17 out from the RTC on October 8?

18 A I don't think I had. But I drafted that  
19 letter earlier, maybe I didn't go back and change  
20 that.

21 I just -- I am not sure. But there's --  
22 but that paragraph also reflects a problem, the

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1 problem that the office, my office and the FBI was  
2 having trying to get information from the RTC because  
3 they were not responding to grand jury subpoenas and  
4 they were not turning over information, so I wanted  
5 to be sure that they knew that they needed to do that  
6 if they wanted us to pursue something.

7 Q What were the problems that your office was  
8 having getting materials from the RTC?

9 A They just -- what I just described. They  
10 weren't responding to grand jury subpoenas; they had  
11 sent a letter -- it was a letter from Karen  
12 Carmichael, I think -- in October of 1993 in which  
13 she stated that she considered the dates on the grand  
14 jury subpoenas to be -- I don't remember the exact  
15 word but something like optional. They sort of  
16 responded when they had time to do it, when they  
17 could get around to getting the information  
18 together.

19 It was an ongoing problem and apparently it  
20 was a problem that had -- there was a long history of  
21 that problem between the RTC and the district.

22 Q Between the RTC and?

1 A The Eastern District of Arkansas.

2 Q The U.S. Attorney's Office?

3 A Yes, there had been continuing problems of  
4 getting information, getting responses to subpoenas.

5 MR. FISHMAN: I'm sorry, in this case?

6 THE WITNESS: No, just generally but in  
7 this case as well. Also generally.

8 BY MR. KRAVITZ:

9 Q Did you ever learn whether any particular  
10 person or people at the RTC were responsible for the  
11 problems in the production of documents from the RTC  
12 to the U.S. Attorney's Office or to the FBI in the  
13 Madison case?

14 A I don't think so. I don't recall that.

15 Q When you were testifying earlier about the  
16 meeting that you had on November 3rd, 1993 in  
17 Mr. Heymann's office at which the recusal issue was  
18 discussed, you also mentioned that there was some  
19 discussion about your concerns about leaks of RTC  
20 information. What were your concerns as of that time  
21 about leaked RTC information?

22 A My concern was that the letter that you

1 were just referring to that I wrote to Jean Lewis --

2 Q The October 27 letter?

3 A Correct. That that letter had been leaked  
4 to the press.

5 Q How do you know that?

6 A I am trying to remember specifically. I am  
7 sure that I had -- I don't remember specific  
8 conversations with reporters, but I am sure I must  
9 have known that from reporters. I knew that there  
10 was the article on October the 31st in the Post and  
11 in the Arkansas Democrat.

12 I know that either Donna Henneman or  
13 Deborah Westbrook had called me late in October and  
14 wanted to know, did you ever write the letter, Jean  
15 Lewis is still calling the office and I said I have  
16 written the letter, and immediately thereafter  
17 whichever one of those two women I was talking to  
18 told Jean Lewis that the letter was on the way and  
19 then received a telephone call from a reporter within  
20 just a matter of minutes.

21 Q You don't know whether it was Ms. Henneman  
22 or Ms. Westbrook, whichever one it was told you that

1 after learning from you that you had sent the letter  
2 to Ms. Lewis, she called Ms. Lewis and told Ms. Lewis  
3 that the letter was on its way and then 10 minutes  
4 later received a telephone call from a member of the  
5 press?

6 A That's correct.

7 Q And did Ms. Henneman or Ms. Westbrook tell  
8 you what the content of the telephone call from the  
9 member of the press was?

10 A I am sure that they did. I don't remember  
11 specifically now but I knew -- the timing of that  
12 caused me to be suspicious about information being  
13 leaked and I was just concerned about that.

14 Q Is there anything else that caused you  
15 concern about leaks by the RTC or from the RTC  
16 relating to the Madison case?

17 A I don't recall anything else right now.

18 MR. KRAVITZ: That's all the questions I  
19 have, but I would like to take Lou up on his offer to  
20 talk to Mike and see if I can get this document.

21 MR. GICALE: I said I will take the issue  
22 up with Mike and I will do that. I just have a few

1 questions -- if you want me to do that before, I can  
2 do that. I know he's got a meeting at 6:00. Maybe I  
3 should do that now. I don't want to cut you off.

4 MR. FISHMAN: Off the record.

5 (Discussion off the record.)

6 (Recess.)

7 MR. CHERTOFF: Let's go on the record.

8 I gather there was some colloquy after I  
9 had excused myself. I wanted to address  
10 Mr. Kravitz's comments, which were made in my  
11 absence, but before I do, I want to just ask a  
12 question again to Ms. Casey that I had asked  
13 previously.

14 EXAMINATION

15 BY MR. CHERTOFF:

16 Q I had asked you whether on September 7th  
17 after you had your 9:00 meeting with Mr. Coleman,  
18 within the next 10 minutes you made a call to the  
19 White House and your answer was no.

20 I want to actually ask the question this  
21 way: Within the next hour and 10 minutes, did you  
22 make a call to the White House?



1 A Well, I will remind you my answer to your  
2 question when we had this discussion earlier was that  
3 I believe that Randy came to my office early in the  
4 morning. I don't remember whether it was 9:00 --  
5 8:30, 9:00, 10:00 but my recollection is it was in  
6 the morning.

7 Q Okay, at approximately, then, sometime  
8 after 10:00, shortly after 10:00, did you call the  
9 White House?

10 A No, I did not.

11 MR. CHERTOFF: That's the question. As far  
12 as Mr. Kravitz is concerned, the document which he  
13 was working off of was work product that consists of  
14 analysis we have done of various phone records, all  
15 of which are in the custody of both the Minority and  
16 the Majority.

17 MR. KRAVITZ: You know I can't dispute what  
18 you just said. My request, though, is that you tell  
19 us what the phone record -- apparently there is some  
20 phone record that both -- that both staffs have  
21 possession of, and my request is that you inform me  
22 of what the phone record indicates, that there is a

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1 call at a certain time from a certain number to  
2 another certain number.

3 MR. CHERTOFF: The call indicates --

4 MR. KRAVITZ: I would like to be able to  
5 ask Ms. Casey if that refreshes her memory.

6 MR. CHERTOFF: I don't have it with me. I  
7 believe I asked Ms. Casey about a specific telephone  
8 number which she indicated was not hers, which is the  
9 number from which the call emanates.

10 And the call goes to the White House.

11 MR. KRAVITZ: Can you tell us what --

12 MR. CHERTOFF: I don't want to become the  
13 subject of discovery. If you are asking me for a  
14 good faith basis of my asking the question, that's  
15 the answer. I gather that was the issue that was  
16 raised in my absence.

17 MR. KRAVITZ: That was not the issue. No  
18 one made the -- stated anything that implied that you  
19 lacked a good faith basis for your question. To the  
20 contrary, my concern was that you were referring to a  
21 document, or you were looking at a document that you  
22 were not showing to the witness that you appeared to

1 have -- you appeared to have in your possession a  
2 document which indicated that a call was made from  
3 either Ms. Casey, or someone in her office, to  
4 someone at the White House and you weren't showing it  
5 to her.

6 I don't think that's -- I don't think that  
7 that's consistent with a search for the truth, which  
8 I think is what we are here for. I think if someone  
9 is saying that she doesn't remember something and you  
10 have a document that might refresh her recollection,  
11 in all fairness, both -- in all fairness to her and  
12 in fairness to the integrity of her investigation you  
13 ought to show it to her. That's obviously your  
14 decision.

15 MR. CHERTOFF: The problem is --

16 MR. KRAVITZ: Can I finish, please?

17 MR. CHERTOFF: Sure.

18 MR. KRAVITZ: I would like to show her the  
19 document. I don't have it. I'm pleading guilty  
20 right now to not having found the document in the 5  
21 billion pages of documents that are in our basement  
22 document room, and all I am asking you is whether you

1 will show it to me. If you won't, then you won't.

2 MR. CHERTOFF: The document I had was an  
3 analysis that we prepared, a summary. I am not  
4 prepared to show a witness a summary of a whole lot  
5 of telephone calls. Nor do I think there is any  
6 obligation in fairness that I do so.

7 MR. KRAVITZ: I don't -- I am not  
8 suggesting you need to show the witness your work  
9 product. On the other hand, I have little doubt that  
10 you could quickly put your hands on the actual  
11 record.

12 MR. CHERTOFF: Are you saying you want me  
13 to tell you the Bates number of the record? It is  
14 A1004.

15 MR. KRAVITZ: Are you willing to share it  
16 with us if you have it?

17 MR. CHERTOFF: Why don't I ask. The reason  
18 I am not is because we have highlighted certain  
19 things and I don't really want to share what we've  
20 highlighted on the document with you, Mr. Kravitz,  
21 but I have given you the Bates number, you have it.  
22 If you want to take a couple of minutes and send for

1 it, I suggest you do so. It is a production of the  
2 Department.

3 MR. FISHMAN: Sounds like a Department  
4 production number.

5 MR. KRAVITZ: Let me ask you one more  
6 question which might save us the time of having to go  
7 downstairs to the basement two buildings away.

8 Can you just tell us what the phone number  
9 in the White House that was called is? Presumably  
10 I've got that document and I can go look at it and it  
11 will have the same number that is on your copy.

12 MR. CHERTOFF: I am trying to remember.

13 MR. GICALE: No, I don't. I didn't see  
14 it.

15 MR. CHERTOFF: Can I ask you a question?

16 BY MR. CHERTOFF:

17 Q Since, Ms. Casey, you have told us -- you  
18 have testified to us you called the White House on  
19 two occasions during the summer, in June when you  
20 were going through your process of being nominated  
21 and then in 1994 in connection with some personal  
22 matter, is your being shown a number of the

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1 particular extension at the White House that received  
2 the call something you think will refresh your  
3 memory? Is there a lack of memory about calls to the  
4 White House or is it your recollection that you have  
5 only called the White House on two occasions?

6 MR. FISHMAN: Before she answers the  
7 question I don't think this was a question raised by  
8 Ms. Casey. I think this is something Mr. Kravitz  
9 wanted to do. I do think, however, that -- and I  
10 sort of stayed out of the discussion, but to the  
11 extent that you know, for example, the person or  
12 office to whom the extension in the White House was  
13 assigned, it is conceivable, of course, that although  
14 she has no memory and does not believe she called the  
15 White House at the time, but it is this person --  
16 that's the kind of thing that could refresh her  
17 recollection. And my concern is that we not be left  
18 in a situation where later on down the road, it turns  
19 out that because of who the extension is assigned to  
20 or what office the extension is assigned to, that  
21 Ms. Casey currently has no recollection of having  
22 called the White House during this period and does

1 not believe she did, and has so testified, has her  
2 recollection refreshed in a way that simply an  
3 extension would not, the number itself.

4 MR. CHERTOFF: That's legitimate and I wish  
5 I could say with certainty, but the White House seems  
6 to have difficulty and has had difficulty for several  
7 weeks in giving us any information about who certain  
8 extensions belong to. So I think that as long as the  
9 White House is having difficulty, I am going to be  
10 stymied in my ability to supply you with a definite  
11 person on the other end of the line.

12 MR. FISHMAN: Without desiring in the least  
13 to intrude on that dispute --

14 MR. CHERTOFF: I can't ask you to urge that  
15 along so I think that's where we are. I don't  
16 remember the number off the top of my head. If you  
17 want --

18 MR. FISHMAN: Let me suggest this: Once  
19 the number is -- if Mr. Kravitz wants to do it now or  
20 Mr. Gicale wants to do it now, that's fine. If in  
21 the next -- and we will go back and look at it  
22 ourselves. If in the next couple of days we are able

1 to identify an extension and thereby with either the  
2 Committee's help, or not, able to identify where that  
3 particular extension was assigned, we will let  
4 Ms. Casey know --

5 MR. CHERTOFF: Let me suggest this: I  
6 mean, I can't -- I don't want to in any sense have it  
7 left that we are sending you on a mission to go off  
8 and find out what these --

9 MR. FISHMAN: I don't want to do that. I  
10 think that's a good option.

11 MR. CHERTOFF: Maybe what you want to say  
12 is if tomorrow or something, you know, Mr. Kravitz or  
13 I get the number, and we send -- and we call up  
14 Mr. Fishman and give him the number, I would be  
15 agreeable to his, you know, presenting you with a  
16 number, Ms. Casey. And if it refreshes your  
17 recollection, you can, you know, let us know and if  
18 it doesn't, you can let us know as well.

19 THE WITNESS: I do have something I want to  
20 add.

21 In June of 1993 when my nomination was  
22 being reviewed by the White House, I probably talked



1 to them on more than one occasion during that period  
2 of time.

3 MR. CHERTOFF: But your recollection is the  
4 conversations in connection with your application  
5 being reviewed by the White House certainly concluded  
6 as of the point you were nominated by the President.

7 THE WITNESS: That's correct.

8 MR. CHERTOFF: Thank you.

9 MR. KRAVITZ: I would like to ask a couple  
10 of additional questions.

11 EXAMINATION

12 BY MR. KRAVITZ:

13 Q Ms. Casey, are you familiar with press  
14 reports which allege that you spoke with Webster  
15 Hubbell on several occasions in 1993?

16 A I am familiar with the press reports, yes.

17 Q Did you ever speak with Webster Hubbell on  
18 any subject at any time in 1993?

19 A I did not.

20 Q When was the first time that you ever spoke  
21 with Mr. Hubbell about anything?

22 A January 1994 at the United States Attorneys

1 conference in Washington.

2 Q Did that conversation have anything to do  
3 with the Madison case or any of the Hale matters?

4 A No.

5 Q Have you ever been to the White House?

6 A Yes, I have.

7 Q When was the first time that you went to  
8 the White House?

9 A January of 1994, during the United States  
10 Attorneys conference.

11 Q Did you have any conversations with anyone  
12 at the White House in January of 1994 relating to the  
13 Madison case or the Hale matter?

14 A Absolutely not.

15 MR. KRAVITZ: That's all I have.

16 EXAMINATION

17 BY MR. GICALE:

18 Q Ms. Casey, Mr. Kravitz asked you some  
19 questions with respect to that September 21 letter to  
20 Randy Coleman from you, and this was a response to  
21 his September -- apparently his -- one or two  
22 September 20th letters, there was one to you, then a

1 response on the 20th back, then there is a -- then  
2 Mr. Johnson -- right, there is a letter to him.

3 In any event, the September 21 letter, in  
4 it you indicated -- he had previously indicated that  
5 he had named -- given some specific names to  
6 Mr. Jackson; is that correct, in the letter of the  
7 20th?

8 A Yes, I believe.

9 Q One of the letters of the 20th?

10 A I believe that's correct. I looked at that  
11 earlier.

12 Q Now in the second paragraph of your  
13 September 21 letter, a letter apparently you had  
14 dictated, you indicate that he failed to furnish the  
15 specifics that he had alleged in the prior letter or  
16 letters; correct?

17 A That's correct. Part of the purpose of  
18 that September 21 record was to be sure that -- was  
19 to try to correct the misinformation in Mr. Coleman's  
20 September 20th letter.

21 Q Now, your understanding about his failure  
22 to provide those specific names is based on what?

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1 A Is based on my history with the  
2 investigation and the prosecution.

3 Q Well, did you talk to Fletcher Jackson  
4 about whether or not he had given specific names?

5 A Fletcher Jackson and I had talked on a  
6 number of occasions about that case and I had also  
7 talked with Michael Johnson about it.

8 Q Well, in August and September, did Fletcher  
9 Jackson tell you that he had had plea discussions  
10 with Mr. Coleman wherein he had refused to give him a  
11 misdemeanor, that he would have to take a felony?

12 A I don't recall the specifics -- we had  
13 discussions generally during that period of time  
14 about matters involving this investigation and  
15 prosecution. I can't tell you specifically what we  
16 said about it, but I was aware that Mr. Coleman had  
17 not given specific information to Mr. Jackson.

18 Q Well, in -- you testified in August  
19 Mr. Jackson told you that he had information that the  
20 Hale case could possibly lead to Mr. McDougal,  
21 Mr. Tucker and the Clintons; correct?

22 A I think what Fletcher told me was that the

1 Hale investigation might lead back into Madison and  
2 some of the other issues that were raised in that  
3 1992 referral. That's generally what Fletcher told  
4 me that day.

5 Q But he also -- I believe you also testified  
6 he raised Mr. Tucker's name; correct?

7 A I know that he did because I know that we  
8 talked about it the first time we ever discussed the  
9 case, yes.

10 Q And that would have been, I think you say  
11 about two weeks after you came into the office, at  
12 the end of August; correct?

13 A I believe that's right.

14 Q Now, at that point, did he tell you that he  
15 had had at least some plea discussions with  
16 Mr. Coleman who was representing Mr. Hale at that  
17 point?

18 A I don't know if he told me that  
19 specifically that day, but I know that when Randy  
20 Coleman came to my office on September the 7th, I was  
21 aware that he and Fletcher, that he had discussed a  
22 possible plea with Fletcher. My recollection, which

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1 is not based on -- I don't have a memory of the  
2 specific statement or conversation but my  
3 recollection is Fletcher had had much the same  
4 conversation that I had with Randy Coleman on  
5 September the 7th. That was sort of the extent of  
6 it.

7 Q Well, isn't it a fact that Mr. Jackson told  
8 you that Mr. Coleman had told him that his client,  
9 Hale, could give information with respect to  
10 Mr. McDougal, Mr. Tucker and the Clintons?

11 A No. I don't believe I testified to that  
12 earlier and that is not my recollection. My  
13 recollection is Randy Coleman had never proffered  
14 anything specific to Fletcher.

15 Q Again, after you received these letters on  
16 September 20th, did you check back with Fletcher  
17 Jackson to see whether or not -- did you reference  
18 these letters of September 20th and say hey, this  
19 allegation is being made that he gave -- that he gave  
20 you specific names?

21 MR. FISHMAN: Didn't we go over this  
22 before?

1 MR. GICALE: We did, but I am doing it in a  
2 different way, I believe.

3 MR. KRAVITZ: That's for sure.

4 THE WITNESS: I was in San Antonio so I did  
5 not speak with Fletcher about that specifically.  
6 Also, before September 20th sometime I had made  
7 Michael Johnson my assistant and had asked him to pay  
8 particular attention to that investigation.

9 BY MR. GICALE:

10 Q So the letter you wrote on the 21st is  
11 really totally dependent on the recommendation that  
12 Mr. Johnson made to you with respect to that issue?

13 A No, it is not totally dependent on it. I  
14 had some history with the case as well and I knew  
15 what had been going on with it, but I think I  
16 testified earlier that Michael and I collaborated on  
17 this letter over the telephone and it was actually  
18 dictated and I -- my judgment, based on who typed the  
19 letter is that Michael actually called back and  
20 dictated it following our agreement about what would  
21 go in it.

22 Q Now, Mr. Kravitz asked you whether or not

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1 you took any action with respect to the nine  
2 referrals and your response was no; correct?

3 A If I took any action, I think that's right.

4 MR. KRAVITZ: The question actually related  
5 to a specific time period, between the time that the  
6 referrals arrived in Little Rock U.S. Attorney's  
7 Office and November 5, when she recused herself.

8 BY MR. GICALE:

9 Q Okay, between the time that the referrals  
10 arrived in the office in Little Rock and the time you  
11 recused yourself on November 5th, did -- Mr. Kravitz  
12 asked you whether or not you took any action with  
13 respect to the nine referrals and your response was  
14 no; correct?

15 A That's correct.

16 Q Now the fact of the matter is you did  
17 review them; correct?

18 MR. FISHMAN: I have to object to that,  
19 Mr. Gicale. It was very clear from Mr. Kravitz's  
20 question he was talking about investigative action.

21 MR. GICALE: I don't know if it is clear  
22 but your objection is noted.



1 BY MR. GICALE:

2 Q You did review the referrals; correct?

3 A I reviewed the referrals.

4 Q Did you discuss the referrals with no one?

5 A I didn't discuss the referrals with anyone

6 until November the 3rd. I believe I talked to

7 Michael the morning of November the 3rd, the meeting

8 of the -- on the day of the meeting in Phil Heymann's

9 office, I called Michael from -- I was in Annapolis.

10 I called Michael in Little Rock to get him to review

11 those referrals with me over the telephone so that I

12 could discuss them intelligently at that meeting.

13 Q I believe you also testified pursuant to a

14 question of Mr. Kravitz's that you had not seen the

15 referrals before you sent out the declination letter

16 to Mrs. Lewis; correct?

17 MR. FISHMAN: Again, that's not what she

18 testified to.

19 MR. GICALE: If she hasn't testified to it,

20 I will ask you the question.

21 BY MR. GICALE:

22 Q Did you see the referrals before you sent

1 the declination letter out to Ms. Lewis?

2 MR. KRAVITZ: I have to object. I think

3 the question is unclear, Lou.

4 MR. GICALE: I don't think it is unclear.

5 Your objection is noted. Now I would like her to

6 answer the question.

7 MR. KRAVITZ: I haven't finished my

8 objection, Mr. Gicale. I think in your question you

9 should distinguish between the 1992 referral that was

10 being declined and the 1993 referrals which are

11 separate.

12 MR. GICALE: That -- thank you. And I will

13 do it.

14 BY MR. GICALE:

15 Q Did you see the 1993 referrals before you

16 sent out the declination letter to Ms. Lewis?

17 A I am not sure whether I had seen the 1993

18 referrals at the time the letter went out. Based on

19 the last paragraph in the letter, my guess is that I

20 had not seen them and that that's part of what that

21 last paragraph is about. The part that references if

22 you have further information or other evidence.

1 Q Do you know whether or not you told Deborah  
2 Westbrook that you had the new referrals when you  
3 decided to decline on the first referral?

4 A I don't remember that.

5 I believe I also answered -- the --

6 Mr. Kravitz's earlier question. I think I also  
7 pointed out that I had drafted the letter to  
8 Ms. Lewis, and that there was a period of time that  
9 lapsed in there before I actually had it printed out  
10 and sent it. Because I asked Michael to look at it  
11 and I am sure I got busy doing something else.

12 So, it is also possible that I had not seen  
13 those referrals when I first drafted the letter and  
14 that maybe I did see them before that letter was  
15 actually mailed, but I just don't have a specific  
16 recollection of that.

17 Q Do you know Beverly Bassett Schaffer?

18 A I know who she is.

19 Q Have you ever -- do you have a personal  
20 relationship with her or a business relationship?

21 A No. But I know her and she knows me. If  
22 she walks in the door she'll know who I am and I

1 would know her.

2 Q Do you know her husband?

3 A I do.

4 Q Did he work on Senator Bumpers's staff?

5 A He is Betty Bumpers's nephew and he was at  
6 one time the Senator's administrative assistant,  
7 before -- long before I worked there.

8 Q Do you know if her name was mentioned -- do  
9 you recall seeing her name mentioned in the  
10 referrals?

11 A No, I don't remember that at all.

12 Q Now, Mr. Kravitz also asked you about that  
13 point in time when you wanted to -- you indicated  
14 that you wanted to review the substance of the  
15 referrals or you wanted to determine whether there  
16 were allegations against Mr. Tucker and these  
17 referrals before you recused; do you recall some  
18 questioning along those lines?

19 A I don't remember that specific question but  
20 I know that we discussed that subject generally.

21 Q Now, by the time that you received the 1993  
22 referrals, you already -- you had information from

1 Mr. Jackson which you received in August with respect  
2 to Mr. Tucker; correct?

3 A That's correct.

4 Q You had information that you received from  
5 the FBI on September 24th with respect to Mr. Tucker,  
6 Mr. Ward and Mr. Smith; is that correct?

7 A I didn't receive information from them, I  
8 don't believe. We had a meeting in which we  
9 discussed my -- among other things, my recusal, that  
10 there was an investigation or prosecution of Governor  
11 Tucker or Steve Smith.

12 Q Well, did the FBI agents at that meeting  
13 discuss the involvement of Tucker, Ward and Smith in  
14 the matters they were investigating?

15 A You are talking about specific factual  
16 information?

17 Q Yes.

18 A No, I do not recall that.

19 Q Was the meeting called because there was a  
20 question as to whether or not you should recuse  
21 yourself?

22 A No, the meeting was called because there

1 were problems with -- there was a difference of  
2 opinion about the investigation and how it should be  
3 conducted. There was not a difference of opinion  
4 with me, but between the agent, the financial analyst  
5 and the assistant in my office.

6 Q That was the only reason for the meeting?

7 A My recollection is that's why the meeting  
8 was called. I didn't ask for the meeting. My -- and  
9 I was not asked for the meeting. It was arranged, I  
10 believe, by Michael Johnson and either Don Whitehead  
11 or Steve Irons, but I don't -- I don't know that  
12 specifically, but that's my recollection.

13 Q Well, in any event, you have indicated by  
14 October 5th you had already indicated that you were  
15 going to recuse from the Tucker matters; correct?

16 A I'm sorry, by October 5th?

17 Q In previous testimony in front of the  
18 House, there was an E-mail, or message, some  
19 reference to the director indicating on October 5th,  
20 that you should be recused from the matter. Do you  
21 recall being asked about that E-mail message?

22 A I'm sorry. E-mail message from me?

1 Q Do you recall being asked in your House  
2 deposition whether or not the director of the FBI had  
3 suggested that you should recuse yourself from this  
4 investigation?

5 A I remember from my House deposition that  
6 there was some document -- and I don't know who it  
7 was from or who it was to, but it was not to me or  
8 from me -- that referred to -- I apologize.

9 MR. FISHMAN: Let the record reflect that  
10 Ms. Casey's beeper just went off, which is the reason  
11 she is apologizing.

12 THE WITNESS: I'm sorry. It was not a  
13 message to me or from me. It was a document I had  
14 never seen before, and there was some reference in  
15 there to the fact that the FBI director thought that  
16 I should recuse. It is the first time I had ever  
17 seen that and that's all I know about that document.  
18 I still don't know who it was from or who it was to  
19 or what the FBI director knew.

20 MR. KRAVITZ: We've already had questions  
21 and answers on that subject during Mr. Chertoff's  
22 first round of questions.

1 MR. GICALE: I know, but this is a  
2 follow-up to that.

3 MR. KRAVITZ: This is what?

4 MR. GICALE: A follow-up to your  
5 cross-examination.

6 BY MR. GICALE:

7 Q After you were shown the document  
8 referencing the FBI director's suggestion that you  
9 should recuse yourself, did you indicate in the House  
10 that you didn't -- while you had never seen it  
11 before, you didn't find it surprising, particularly  
12 in light of the fact that you had already indicated  
13 that you were going to recuse?

14 A I don't recall specifically if that was my  
15 answer in the deposition, but that probably would be  
16 my answer now if you asked me the question.

17 Q Okay.

18 A I just don't know what the FBI director  
19 knew, who had briefed him about what, but my opinion  
20 was that I was recusing, so his opinion was the  
21 same.

22 Q Well, if you had information in August from



1 Fletcher Jackson, you had information in September  
2 from the FBI, what was the magic of the RTC referrals  
3 in terms of you making a decision?

4 MR. KRAVITZ: I am going to object.

5 MR. GICALE: Your objection is noted.

6 MR. KRAVITZ: I am going to make the  
7 objection on the record. You know, Lou, first of  
8 all, this is an area that Mike went into in great  
9 detail during his initial round of questioning, which  
10 lasted for several hours.

11 I do not believe that this question is  
12 responsive to anything that I elicited from the  
13 witness during my brief questioning, and I guess for  
14 all of those reasons I just don't see why it is  
15 appropriate or necessary to go into it again here  
16 when she's already been asked this question and  
17 answered it.

18 MR. GICALE: Your objection is noted.

19 BY MR. GICALE:

20 Q Could you please answer the question.

21 A We had an investigation going with David  
22 Hale. He wanted immunity or a misdemeanor. He

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1 wanted a cooperation agreement. He wouldn't proffer  
2 his testimony.

3 That's what we had. Everything else was a  
4 possibility or a maybe or a might or an if or there  
5 could be referrals from the RTC, but there was  
6 nothing to base a recusal on.

7 MR. KRAVITZ: Until the referrals arrived.

8 THE WITNESS: There was nothing to base a  
9 recusal on until the referrals arrived, until David  
10 Hale actually proffered information.

11 MR. GICALE: Is that a question?

12 MR. FISHMAN: Please don't interrupt.

13 MR. GICALE: I thought I was asking the  
14 questions and I didn't realize Mr. Kravitz was  
15 jumping in.

16 MR. FISHMAN: That may well be, but since  
17 the witness was in the middle of explaining  
18 something, whether it was appropriate for Mr. Kravitz  
19 to do that, I would appreciate if you didn't  
20 interrupt the witness.

21 MR. GICALE: Well, I wasn't. He did.

22 Go ahead, finish your answer.

1 THE WITNESS: If -- I was waiting for  
2 something, the referrals from the RTC, an actual  
3 proffer of testimony from David Hale, some actual  
4 information, something other than a second- or  
5 thirdhand report from a newspaper reporter or the  
6 news media about information that David Hale  
7 possessed or information about wrongdoing on the part  
8 of someone. That's what I didn't have.

9 All Fletcher told me in August was that he  
10 thought that the David Hale investigation could lead  
11 back into Madison. Fletcher didn't have that  
12 information at that point in time either.

13 BY MR. GICALE:

14 Q Did any present or former White House  
15 employees or representatives of the White House  
16 contact you with respect to the Hale investigation,  
17 the McDougal investigation, Madison or the Tucker  
18 matter?

19 A No.

20 Q Anyone from Governor Tucker's  
21 administration contact you on these matters?

22 A No.

1 Q Or anyone in your office, to best of your  
2 knowledge?

3 A To the best of my knowledge, no. And I  
4 believe if that had happened, someone on my staff  
5 would have reported that to me.

6 Q Now, when you selected Mr. Johnson to be  
7 your first assistant, was he recommend to you by  
8 anyone outside the U.S. Attorney's Office?

9 A Outside the U.S. Attorney's Office, no.  
10 But I spent the first couple of weeks in the office  
11 talking with the assistants in the office and with  
12 the staff to get a feel for what was going on in the  
13 office and to elicit their opinions about those  
14 management decisions.

15 Q And you knew him as just as a teacher at  
16 the University of Arkansas, Little Rock?

17 A I knew he had been an adjunct in the trial  
18 ad program.

19 Q And just knew him from that program or just  
20 knew of him?

21 A I knew him because he had played poker with  
22 the faculty poker group that my husband is allowed to

1 play in, so he had been a guest in my home.

2 MR. FISHMAN: Off the record.

3 (Discussion off the record.)

4 BY MR. GICALE:

5 Q Other than that kind of contact, did you  
6 know Mr. Johnson?

7 A No, I did not. I had only met him on two  
8 or three occasions, that's it.

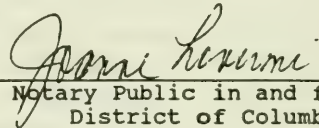
9 MR. GICALE: I have nothing further.

10 MR. KRAVITZ: Off the record.

11 (Whereupon, at 6:35 p.m., the deposition  
12 was concluded.)

13 -----  
14  
15 PAULA CASEY  
16  
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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000



**DEPOSITION OF WILLIAM H. KENNEDY, III  
IN RE: S. RES. 120**

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**WEDNESDAY, NOVEMBER 1, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of WILLIAM H. KENNEDY, III, called for further examination pursuant to agreement by counsel, at 3:08 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.  
Majority Chief Counsel  
LANCE COLE, Esq.  
Minority Deputy Special Counsel  
ANDREW M. SCHAUER, Esq.  
Minority Assistant Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

PAUL V. CASTELLITTO, Esq.  
Sharp & Lankford  
1785 Massachusetts Avenue, NW  
Washington, DC 20036  
On behalf of the Deponent.

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## PROCEEDINGS

MR. GIUFFRA: Good afternoon, Mr. Kennedy.

My name is Robert Giuffra. I'm the chief counsel of the Senate Banking Committee. To my left is Lance Cole who is a Democratic deputy special counsel.

Just for the record, I want to note that the deposition is commencing at 3:08. It had originally been scheduled to commence at 1:00, and the time was put back at the request of the Democratic staff.

I understand, Mr. Kennedy, that you have a plane you need to catch and you need to leave here at 6:30?

THE WITNESS: That's correct.

MR. GIUFFRA: We will try to proceed as expeditiously as we can.

Just some basic preliminaries. This is a deposition that is being conducted pursuant to Senate Resolution 120. This resolution establishes a special committee administered by the Banking Committee to conduct an investigation and public hearings involving Whitewater Development

Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., and other related matters. This is a deposition that is being held in advance of public hearings that the committee will commence in November.

I know you have testified previously before the committee, so we will be brief. We will ask you a series of questions. I will be going first and then Mr. Cole. You will be testifying under oath. If at any time you don't understand a question, let us know. If you need a break, let us know.

The stenographer will prepare a record of questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings. Prior to the hearings you will receive a letter from the committee advising you you may come to the Senate to review a transcript of your deposition and make note of any corrections. We will also make the deposition available to your counsel four days prior to any time you might be called as a witness.

You have a right to be represented by

1 counsel. I see you have chosen to do so. If counsel  
2 would state an appearance for the record.

3 MR. CASTELLITTO: Paul Castellitto.

4 MR. GIUFFRA: The resolution specifies the  
5 procedure for the conduct of depositions including  
6 objections to the form of the questions may be noted  
7 for the record.

8 Mr. Kennedy, do you have any questions?

9 THE WITNESS: No.

10 MR. GIUFFRA: Please swear Mr. Kennedy.  
11 Whereupon,

12 WILLIAM H. KENNEDY, III  
13 was called as a witness and, having first been duly  
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. GIUFFRA:

17 Q Mr. Kennedy, please state your name for the  
18 record.

19 A William Holder Kennedy, III.  
20  
21

22 Q And your present business address?

---

1 A 120 East Fourth Street, Little Rock,  
2 Arkansas, 72201.

3 Q Your present position?

4 A Attorney.

5 Q You are with the Rose Law Firm?

6 A Yes.

7 Q Of counsel, I believe?

8 A Yes.

9 Q Other than your own counsel, did you speak  
10 to anyone prior to this deposition?

11 A No.

12 Q Let's go right into it.

13 Mr. Kennedy, when did you first learn of a  
14 Small Business Administration criminal referral  
15 relating to Capital Management and David Hale?

16 A I couldn't tell you precisely. I read  
17 about it in the press.

18 Q Do you recall when you read about it in the  
19 press?

20 A No.

21 Q Can you estimate the year? Was it 1992,  
22 1993?



1 A It may have been 1994. It would be either  
2 '93 or '94.

3 Q Do you recall whether it was the summer  
4 period or earlier than the summer of that year?

5 A Can you read back his original question,  
6 what we are talking about, or maybe you can restate  
7 it?

8 Q I will restate the question. When did you  
9 first learn of a Small Business Administration  
10 criminal referral relating to Capital Management and  
11 David Hale?

12 MR. COLE: For the record, you are  
13 referring to a criminal referral by the SBA to the  
14 Department of Justice?

15 MR. GIUFFRA: Correct.

16 THE WITNESS: I'm not sure I ever knew of  
17 that unless it was reported in the press that way.

18 BY MR. GIUFFRA:

19 Q Why don't I rephrase the question. When  
20 did you first learn, when, if ever, did you learn  
21 that David Hale was under investigation for  
22 criminal -- under criminal charges?

1 A David Hale? When I received a phone call  
2 from Randy Coleman.

3 Q Do you recall when that was?

4 A I want say it was in August of 1993. I  
5 don't remember precisely.

6 Q In August 1993, what was your position?

7 A Associate Counsel to the President.

8 Q Who was Randy Coleman?

9 A Randy Coleman is a lawyer in private  
10 practice in Little Rock.

11 Q Prior to becoming Associate Counsel to the  
12 President, did you have any sort of relationship with  
13 Mr. Coleman?

14 A I had worked on one transaction involving  
15 Mr. Coleman when I was in private practice with the  
16 law firm. He was on the other side of that  
17 transaction. Prior to that, I probably knew him, but  
18 didn't know him well.

19 Q Were you a litigator or a corporate lawyer?

20 A A corporate lawyer.

21 Q Was this a transaction in which you had  
22 extensive dealings with Mr. Coleman?

1       A    When you say extensive dealings, he was not  
2 the lead lawyer on his side of the transaction. So I  
3 had some dealings with him, but I don't quite know  
4 how to respond to the word "extensive." I had  
5 dealings with him.

6       Q    Did you attend more than five meetings with  
7 Mr. Coleman?

8       A    Separate meetings? Probably so.

9       Q    More than 10 meetings?

10      A    No.

11      Q    I'm going to show you a document that we  
12 have received from the White House that bears Bates  
13 number S 7374.

14           This is a message slip that I understand  
15 was a message slip that came out of your files?

16      A    It looks like a White House message.

17      Q    Do you have any recollection of receiving  
18 this message from Mr. Coleman on August 17, 1993?

19      A    As I previously stated, yes, he called me.

20      Q    And you returned the call?

21      A    Yes.

22      Q    And did you return the call on the same day

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10

1 you received the message, August 17, 1993?

2      A    I believe so.

3      Q    Just so the record is clear, the message  
4 states he said it was "really fairly urgent that he  
5 speak with you."

6           When you spoke to Mr. Coleman, was anyone  
7 else on the line?

8      A    No, not the first time.

9      Q    Could you just please describe for the  
10 record the substance of the conversation that you had  
11 with Mr. Coleman on August 17, 1993?

12      A    In essence, he said that he had a client  
13 that was in trouble. I can't remember whether he  
14 identified the client in the first instance. I think  
15 he did.

16      Q    Who was the client?

17      A    David Hale. And that the client was in  
18 trouble and he asserted that there were common  
19 interests between his client and my client, which I  
20 took to mean the President. He said he wanted to  
21 discuss these matters.

22      Q    You took your client to be the President.

1 Why did you believe that your client was the  
2 President?

3 A I was working in the White House counsel's  
4 office.

5 Q Did you also believe your client to include  
6 the First Lady?

7 A My client on an official basis was the  
8 President.

9 Q On an unofficial basis did you believe that  
10 your client was also the First Lady?

11 A I don't remember considering it at the  
12 time.

13 Q So, he indicated that there might be common  
14 interest between his client who was in trouble and  
15 your client, which you took to mean the President;  
16 correct?

17 A I assume that's what he meant, yes.

18 Q Did he indicate to you anything further  
19 about what sort of common interest the President and  
20 his client, David Hale, might have?

21 A No, he didn't. He said something, if I  
22 remember correctly, that his client had made a lot of

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12

1 loans to politicians. I think he referred to his  
2 client is the Heidi Fleiss of loans and he said there  
3 was a commonality of interest.

4 I told him I didn't think I could talk to  
5 him, but I would seek guidance and call him back,  
6 which is what I did.

7 Q How long was this initial phone call?

8 A Probably less than a minute, certainly not  
9 much longer than a minute.

10 Q Do you recall anything more of substance  
11 that was discussed during the course of this phone  
12 call?

13 A No. That was the thrust of it.

14 Q After receiving this phone call from  
15 Mr. Coleman, did you take any action?

16 A Yes. I went over and talked to Bernie  
17 Nussbaum, who at that time was counsel to the  
18 President, my boss.

19 Q Your office, I take it, was in the Old  
20 Executive Office Building?

21 A Yes.

22 Q And you did not speak to Mr. Nussbaum on

1 the phone, but instead walked to the West Wing where  
2 Mr. Nussbaum's office was located?

3 A I called first to see if he was there and  
4 then walked over.

5 Q When you met with Mr. Nussbaum, was anyone  
6 else present?

7 A I don't believe so, no.

8 Q What do you recall about the conversation  
9 you had with Mr. Nussbaum, I presume it was on August  
10 17?

11 A I don't remember the precise date, but  
12 that's a good peg for it right there. I simply  
13 reported what I had heard.

14 Q Exactly how did you describe what  
15 Mr. Coleman had said to you?

16 A Roughly the same way that I described it to  
17 you.

18 Q What did Mr. Nussbaum say to you?

19 A Well, I told Bernie that I did not feel  
20 comfortable talking to him, and he agreed. We  
21 further agreed that we should try to find out what  
22 was going on when I called him back to tell him that

1 we were not going to engage in any substantive  
2 discussion, so that's what I did.

3 MR. COLE: Just for clarity, when you say  
4 you told Bernie that you did not feel comfortable  
5 talking to "him," is the "him" Mr. Nussbaum or  
6 Mr. Coleman?

7 THE WITNESS: Mr. Coleman. I had no  
8 problems, of course, talking to Bernie. The "him"  
9 would be Mr. Coleman.

10 BY MR. GIUFFRA:

11 Q Why did you feel uncomfortable speaking to  
12 Mr. Coleman?

13 A His phone call had come out of the blue.  
14 It was obvious to me he wanted something in  
15 connection with his client. If his client was under  
16 any sort of criminal suspicion or the subject of  
17 criminal activity or prosecutorial activity, it would  
18 be inappropriate to talk to him.

19 Q Did Mr. Coleman, in the course of the  
20 conversation you had with him, indicate he had spoken  
21 with anyone else in the administration about the  
22 matter he had called you about?



1 A No, I don't recall so.

2 Q He did not indicate to you he had spoken to  
3 Webster Hubbell about David Hale?

4 A No, I don't believe he did.

5 Q When you say you don't believe he did, you  
6 are certain that he did not or you don't have a  
7 recollection?

8 A I don't recall him mentioning Webster  
9 Hubbell. I don't believe that he mentioned Webster  
10 Hubbell.

11 Q Do you know whether Mr. Coleman had a  
12 preexisting relationship with Mr. Hubbell prior to  
13 January 20th, 1993?

14 A Do I know for a fact? No, I do not.

15 Q Do you have an understanding as to whether  
16 Mr. Coleman had a preexisting relationship with  
17 Mr. Hubbell prior to January 20, 1993?

18 A I don't know for a fact that he did.

19 Q You indicated that Mr. Nussbaum asked you  
20 to try to find out more about the matter about which  
21 Mr. Coleman indicated that the President and his  
22 client, Mr. Hale, had a common interest.

1 A That's correct.

2 Q Do you recall specifically what  
3 Mr. Nussbaum asked you to do with regard to finding  
4 out more about this matter?

5 A That's basically what he asked me to do,  
6 just find out what you can when you call him back.

7 Q Do you recall approximately how long the  
8 conversation you had with Mr. Nussbaum was?

9 A No, I don't recall precisely, but it was  
10 short.

11 Q Several minutes? Five minutes?

12 A Probably less than five minutes.

13 Q Did Mr. Nussbaum ask you any questions  
14 about David Hale?

15 A No. I mean, I told him that I knew -- in  
16 this conversation I recall telling him that I knew  
17 generally who David Hale was, but that I didn't know  
18 what in the world David Hale could be talking about.

19 Q What was your understanding of who David  
20 Hale was as of August 17, 1993?

21 A I think he was a municipal judge in Little  
22 Rock, Arkansas.

1 Q Had you ever heard of an entity called  
2 Capital Management Services, Inc. as of August 17,  
3 1993?

4 A Mr. Giuffra, I'm going to answer this  
5 question because, based on experience, it is going to  
6 come up over and over again. It is very difficult to  
7 separate what I knew versus what I read in the press,  
8 et cetera. I'm sure it is a problem you have  
9 encountered with other people.

10 I do not believe I had ever heard of  
11 Capital Management ever before this phone call or  
12 actually the second phone call.

13 Q With regard -- strike that.

14 You previously testified that you recall  
15 reading in the press about allegations against  
16 Mr. Hale. Do you recall reading about those  
17 allegations in the press prior to your conversation  
18 with Mr. Coleman on August 17, 1993?

19 A No, sir. I firmly believe they were after  
20 this conversation.

21 Q During the conversation with Mr. Nussbaum,  
22 did you discuss in any way Whitewater Development

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1 Corporation?

2 A Did not.

3 Q Did you discuss James McDougal?

4 A Did not.

5 Q Do you recall discussing Madison Savings &  
6 Loan Association?

7 A No.

8 Q Jim Guy Tucker?

9 A No.

10 Q Did Mr. Nussbaum indicate to you that you  
11 should contact anyone at the Department of Justice  
12 prior to calling Mr. Coleman?

13 A No.

14 Q Did Mr. Nussbaum indicate that you should  
15 speak with anyone prior to calling Mr. Coleman back?

16 A No.

17 Q Prior to returning -- strike that.

18 Did there come a time when you returned --  
19 strike that.

20 Did there come a time when you again spoke  
21 with Mr. Coleman?

22 A Yes.

1 Q Was it later on the 17th of August?

2 A I believe so. It may have been the next  
3 day, but I believe it was the same day.

4 Q Prior to returning the phone call to  
5 Mr. Coleman, did you speak with anyone about the fact  
6 that Mr. Coleman had contacted you?

7 A Yes.

8 Q Who did you speak to?

9 A Beth Nolan, who was, at the time, an  
10 Associate Counsel to the President.

11 Q Did you speak to anyone else?

12 A Not that I recall.

13 Q Is it possible you would have spoken to  
14 Mrs. Clinton about the fact that David Hale had  
15 called?

16 A No.

17 Q Did you speak -- possibly you might have  
18 spoken to Maggie Williams about the fact that  
19 Mr. Coleman had called?

20 A No.

21 Q Is it possible you spoke to the President  
22 about the fact that Mr. Coleman had called?

---

20

1 A No.

2 Q Possible you spoke to Bruce Lindsey about  
3 the fact that Mr. Coleman called?

4 A No.

5 Q Is it possible you spoke to Mack McLarty  
6 about the fact that Mr. Coleman called?

7 A No.

8 Q What do you recall about the conversation  
9 you had with Beth Nolan prior to the time when you  
10 returned the call to Mr. Coleman?

11 A I went and sought Beth out, told her that  
12 he had called, gave her a brief summary of the phone  
13 call, and I asked her to sit in with me on the phone  
14 call when I called him back.

15 Q Why did you seek out Beth Nolan?

16 A She was the closest associate counsel. We  
17 officed in the same office suite.

18 Q Do you recall anything more about the  
19 conversation you had with Ms. Nolan?

20 A That was basically it.

21 Q When you called Mr. Coleman back, did you  
22 use a speakerphone or did you use the headset of the

1 telephone?

2 A I used the headset of the telephone.

3 Q And was Ms. Nolan listening on another  
4 headset?

5 A Yes.

6 Q What do you recall about the second  
7 telephone conversation you had with Mr. Coleman on  
8 August 17, 1993?

9 A Well, I called him back and I told him that  
10 I didn't think we would be able to help him, but that  
11 I couldn't respond sort of fully until I knew a  
12 little bit more about what he was talking about, and  
13 he opened up a little bit.

14 Q First, why did you -- why couldn't you have  
15 helped him?

16 A Well, I think I have answered that question  
17 already. If he was seeking some sort of assistance  
18 from the White House with regard to any sort of  
19 criminal prosecutorial action, he would be out of  
20 luck.

21 Q Now, you indicated that Mr. Coleman opened  
22 up to you. What did Mr. Coleman say to you about the

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1 charges against his client, Mr. Hale?

2 A Okay. It is difficult for me to draw a  
3 bright line between the first conversation and the  
4 second conversation, but my memory is that in the  
5 second conversation, what he said was that  
6 Mr. Coleman operated an SBIC --

7 Q Mr. Hale?

8 A Mr. Hale. That is SBIC's offices had been  
9 raided and records seized, that he had not, at that  
10 time, been indicted, but Mr. Coleman thought that  
11 David Hale would be indicted, that he would be  
12 indicted on regulatory fraud matters,  
13 misappropriation of capital, false financial  
14 statements, that sort of thing.

15 He said that Hale, through the SBA, had  
16 made loans to a number of politicians. I remember  
17 that he mentioned Jim Guy Tucker. He said, if I  
18 remember correctly, that there would be allegations  
19 that the President had some involvement in these  
20 loans.

21 Q Did he say who would be making these  
22 allegations?



1 A I don't recall him saying specifically.

2 Q Generally?

3 A I mean, I took it to mean that David Hale  
4 would, but I don't recall him coming right out and  
5 saying that Hale would make that allegation.

6 Q Did he say anything further about how the  
7 President would be involved in the making of these  
8 loans?

9 A No. He may have said that -- he may have  
10 used the word "pressure." I don't recall  
11 specifically what he said, but basically there would  
12 be an allegation of the President having some  
13 involvement. This of course would have been when the  
14 President was Governor of Arkansas, having some  
15 involvement in the making of these loans.

16 Q Do you recall anything further about what  
17 Mr. Coleman said to you about the charges involving  
18 his client, Mr. Hale?

19 A No, I don't recall specifically. I think  
20 it was probably at that point that we told him we  
21 could have no involvement with him.

22 Q It is your recollection that after he

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24

1 indicated what the allegations were against his  
2 client and the involvement of the President, you said  
3 what to Mr. Coleman?

4 A I can't recall my words specifically, but  
5 basically I said we would have nothing to do with  
6 him, we weren't going to interact with him anymore.

7 Q Did you indicate that Ms. Nolan was on the  
8 phone when you spoke to Ms. Coleman?

9 A Yes, she was.

10 Q Did she speak at all during the course of  
11 the conversation?

12 A I made clear to Randy at the outset of the  
13 conversation that she was with me and on the phone.  
14 I don't recall her speaking, but he knew she was  
15 there.

16 Q Do you recall anything more about the  
17 second conversation on August 17, 1993?

18 A I think I have hit the high points. I  
19 don't recall anything else.

20 Q After the conversation was over, did you  
21 report back to Mr. Nussbaum?

22 A I did.

1 Q Did you report back to Mr. Nussbaum in  
2 person or by telephone?

3 A Well, I did the same methodology. I called  
4 to be sure he was there and then I walked over there  
5 so it was in person.

6 Q What do you recall about that conversation  
7 with Mr. Nussbaum following the second conversation  
8 with Mr. Coleman on August 17, 1993?

9 A Well, again, as I told you, I'm not sure  
10 that it was on August 17th, but it probably was. It  
11 may have been the next day. To cut to the chase, I  
12 basically recited -- I say "recited," I basically  
13 regurgitated or went over the phone call with  
14 Mr. Nussbaum.

15 Q Did Mr. Nussbaum have a response to what  
16 you had said about what Mr. Coleman had told you?

17 A He asked me -- I remember he asked me if I  
18 had ever heard of the stuff before, and I told him  
19 no, that it was a complete puzzle to me. I told him  
20 that I didn't think that this information was  
21 credible at all.

22 Q Why didn't you think the information was

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1 credible at all?

2 A In none of the published reports about  
3 Whitewater at that point in time or any other mention  
4 of Whitewater anywhere had David Hale's name  
5 appeared, at least based on my knowledge, and I had  
6 never heard the name Capital Management in connection  
7 with Whitewater or Jim Guy Tucker. It was again, as  
8 I say, a complete puzzle to me.

9 Q Why did you draw a connection between the  
10 allegations against Mr. Hale and Whitewater?

11 A I think that Mr. Coleman mentioned  
12 Whitewater in his second telephone conversation.

13 Q Do you recall what he said about Whitewater  
14 during the course of the second telephone  
15 conversation?

16 A No, and he didn't go into it in any  
17 detail. I think that he threw out names which I now  
18 know the significance of, but didn't at the time. I  
19 think one of them was Castle Grande. Then he said  
20 Whitewater.

21 Q Had you previously spoken with Mr. Nussbaum  
22 about Whitewater?

1 A I think it may have come up in connection  
2 with Vince Foster's death, yes.

3 Q Do you recall how Whitewater came up in  
4 connection with Vince Foster's death?

5 A I think it came up in connection with press  
6 reports that Mr. Foster was working on some  
7 Whitewater matters.

8 Q Do you recall when those press reports  
9 were?

10 A No. Sometime after his death.

11 Q So, these press reports would have occurred  
12 sometime between July 20, 1993 and August 17, 1993?

13 A I believe so. I can't tell you for sure.

14 Q Do you recall anything further of any  
15 conversations you would have had with Mr. Nussbaum  
16 prior to August 17, 1993 with regard to Whitewater?

17 A No, I don't recall any.

18 Q What else did Mr. Nussbaum say to you or  
19 you say to Mr. Nussbaum during the course of this  
20 conversation?

21 A Which conversation are we talking about?

22 Q Strike that.

1 The second conversation you had with  
2 Mr. Nussbaum after you spoke with Mr. Coleman, do you  
3 recall anything more about what was said?

4 A I told him that I had informed him that we  
5 were not going to have anything to do with him, we  
6 were not going to interact with him further, and  
7 Bernie said fine. That's the last I remember, I  
8 believe.

9 Q Did Bernie say anything more to you?

10 A No, not that I recall.

11 Q Did Bernie ask you to take any action with  
12 regard to what Mr. Coleman had said?

13 A No, he did not.

14 Q Did Bernie ask you to speak with anyone  
15 about what Mr. Coleman said?

16 A No.

17 Q After speaking with Bernie, did you speak  
18 with anyone else -- strike that.

19 After you spoke with Mr. Nussbaum, did you  
20 speak with anyone else about the allegations that  
21 Mr. Coleman had recited during the second phone call?

22 A Do we have a time frame?

1 Q Let's not put a time frame on it. Strike  
2 that.

3 Let me give you a time frame. Within a  
4 week after you spoke with Mr. Coleman, did you speak  
5 with anyone else about the allegations that Coleman  
6 had recited?

7 A If you put that time frame on it, probably  
8 within a week from Mr. Coleman's phone call I spoke  
9 with Web Hubbell, Webster L. Hubbell, and mentioned  
10 this phone call to him.

11 Q What did you say to Mr. Hubbell about this  
12 phone call?

13 A I asked him if he had ever heard of any  
14 David Hale involvement with regard to Whitewater or  
15 with regard to the President.

16 Q What did Mr. Hubbell say to you about that?

17 A No, he had not.

18 Q Why did you contact Mr. Hubbell?

19 A I didn't contact Mr. Hubbell for this  
20 purpose. I spoke to Mr. Hubbell on a regular basis.

21 Q This was in the course of a conversation?

22 A Yes, this was in the course of a

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1 conversation about some other matter.

2 Q Did you speak with anyone else about the  
3 fact -- strike that.

4 Did you speak with anyone else about the  
5 allegations that Mr. Coleman had recited about David  
6 Hale and the President?

7 A I mean, other than immediately after we  
8 hung up the phone, Beth Nolan and I discussed briefly  
9 the phone call.

10 Q What do you recall about that conversation?

11 A I remember telling her that I didn't think  
12 it sounded believable or credible.

13 Q Do you recall how long the second  
14 conversation with Mr. Coleman was?

15 A I don't recall specifically, but it could  
16 not have been more than a matter of minutes.

17 Q Would you estimate 10 minutes or less?

18 A 10 minutes or less for sure, and I would  
19 probably say five minutes or less.

20 Q Have you ever spoken with the President  
21 about the phone call you had with Mr. Coleman?

22 A No.



1 Q Have you ever spoken with the First Lady  
2 about the phone call you had with Mr. Coleman?

3 A No.

4 Q Have you ever spoken with Bruce Lindsey  
5 about the phone call you had with Mr. Coleman?

6 A Yes.

7 Q When did you speak with Bruce Lindsey about  
8 the phone call you had with Mr. Coleman?

9 A Again, I cannot tell you precisely when,  
10 but it was around the time that the first press  
11 reports about this conversation appeared, because I  
12 went to Mr. Lindsey to get him up to speed so that  
13 the White House could respond to these press reports,  
14 but I can't tell you what that time frame is. I  
15 don't know.

16 Q Was it a month or two?

17 A It would be a guess on my part. I think it  
18 probably was within a month or two, because I  
19 think -- but don't hold me to this -- that it was  
20 probably within three weeks or a month that David  
21 Hale was indeed indicted. That's when Randy Coleman  
22 started talking to the press.

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1 Q I believe he was indicted on September 23,  
2 1993.

3 So the press reports were generated by the  
4 fact that Mr. Coleman indicated he had spoken to  
5 various reporters?

6 A Yes.

7 Q And then reporters started calling you?

8 A Yes. I think I got several phone calls  
9 which I did not accept.

10 Q Do you recall anything about the  
11 conversation you had with Mr. Lindsey?

12 A Well, Beth Nolan and I went over and  
13 briefed Bruce, much as I have just done with you, on  
14 what had happened.

15 Q Did you speak with anyone else -- strike  
16 that.

17 Between the time of the press reports --  
18 strike that.

19 Between the time of the conversation with  
20 Mr. Coleman on or about August 17th and the press  
21 reports sometime on or about September 23rd, 1993,  
22 did you speak with anyone else about the conversation

1 that you had with Mr. Coleman other than Hubbell and  
2 Nussbaum?

3 A And Nolan.

4 Q And Nolan.

5 A I don't recall doing so, no.

6 Q So you never spoke to, say, Maggie Williams  
7 concerning this conversation?

8 A No.

9 Q Have you ever spoken to Maggie Williams  
10 concerning this conversation?

11 A Not that I recall.

12 Q Did you speak with anyone else in the White  
13 House counsel's office about this conversation?

14 A Not that I recall.

15 MR. CASTELLITTO: Are you going to mark  
16 that message slip as an exhibit?

17 MR. GIUFFRA: The procedure we have been  
18 following is we don't mark those documents, because  
19 certain documents have a confidentiality treatment  
20 that allows only a limited number of people to see  
21 them, whereas the depositions are available to a  
22 large group of people.

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1 BY MR. GIUFFRA:

2 Q Do you know a lawyer by the name of Richard  
3 Mays?

4 A Do I know a lawyer by the name of Richard  
5 Mays?

6 Q Yes.

7 A Yes.

8 Q Who is Richard Mays?

9 A He is an African American attorney in  
10 Little Rock.

11 Q Have you ever spoken to Mr. Mays about  
12 David Hale?

13 A Not that I recall.

14 Q Do you know a man named Gil Glover?

15 A The name is vaguely familiar to me, but I  
16 couldn't tell you anything about him. I don't know  
17 why the name is familiar.

18 Q Mr. Kennedy, what I would like you to do  
19 now is I want to show you some documents we received  
20 from the White House. They have been represented to  
21 us to be from your files. They bear Bates numbers  
22 S 7375 through S 7377.

1 If you could just read through these  
2 handwritten notes.

3 A Are you having trouble with my  
4 handwriting?

5 Q You have probably been asked to do this  
6 before.

7 A Yes, many times.

8 Q Start at the top and read them in, as best  
9 you can.

10 A Let me be sure I understand precisely what  
11 you want me to do. You want me to just read these?

12 Q Yes. I may ask you questions as we go  
13 through.

14 A It says "David Hale -- SBIC  
15 investigation."

16 Q What about on the top in the left-hand  
17 margin. Is that an A and a B?

18 A Yes. "Investigation place raided and  
19 records seized, loan transaction." Then small B  
20 "Governor Tucker, Heidi Fleiss" -- looks like "back  
21 door" -- "lender to the politicians. Then it says  
22 "corollary: President-Governor Tucker-David Hale

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1 criminal allegations not been indicted."

2 Q What is the -- what are your notes  
3 "corollary" and underneath that you have  
4 "President-Governor Tucker"? What does that  
5 indicate to you?

6 A I'm sorry, sir, I don't recall, other than  
7 he was mentioning the President and Governor Tucker.

8 Q In the same context?

9 A Yes.

10 Then "feds: U.S. Attorney."

11 Q What does that indicate to you?

12 A I think he was telling me that he was  
13 dealing with the feds, not the state.

14 Then it says "SBIC." Then it says  
15 "regulators" or "regulations." I can't tell.

16 Then it says "seizure two weeks" or "two  
17 weeks ago" and then it says "asking for anything."

18 Then it says "Randy Coleman phone number."

19 MR. COLE: If I could interrupt for a  
20 second, Mr. Kennedy, before we continue, it appears  
21 there is a second phone number written at the top of  
22 the page you just began to read. Does that indicate

1 these are the notes of the second call?

2 THE WITNESS: I believe the first page,  
3 S 007375, are the notes of the first conversation,  
4 and S 007376 are the notes of the second  
5 conversation.

6 BY MR. GIUFFRA:

7 Q Why don't we go through those.

8 A It says "Randy Coleman 5013741107."

9 Q Across the top says "8" and it looks like  
10 "19"?

11 A Yes.

12 Q Does that indicate to you you probably  
13 spoke to him the second day, or actually two days  
14 later?

15 A I think so. You all will have to forgive  
16 me, I cannot hold the precise dates. I just don't  
17 recall.

18 Q That indicates the 19th was the second day  
19 of the notes?

20 A Yes.

21 MR. COLE: Those are contemporaneous notes  
22 to the best of your recollection?

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1 THE WITNESS: Yes, this is while I'm  
2 actually on the phone talking to Randy Coleman.  
3 Ms. Nolan would have been in on this conversation.

4 Then it says "David Hale SBIC -- Capital  
5 Management Services." Then it says "investigations  
6 two weeks ago, FBI seized records" and it says "2-W"  
7 which is me saying two weeks ago again. Then it says  
8 "nature of investigation." I think the word is  
9 probably "propriety of loans made past few years in  
10 form that are loan transactions that relate to  
11 Madison Guaranty."

12 Q What does that indicate to you?

13 A I think Randy is saying that Randy was  
14 informed that there are loan transactions that relate  
15 to Madison Guaranty.

16 Q Okay.

17 A It says "all records liquidation of SBIC."  
18 It says "both of them's names cropped up Whitewater  
19 Development Corp. not stopping with David Hale  
20 transactions." It says "South Loop" and then Castle  
21 Grande water."

22 Q What is the prior notation?



1 A Which prior notation?

2 Q "Not stopping with David Hale" indicate to  
3 you?

4 A Either Coleman telling me that Hale was  
5 saying that he was not stopping with Hale, or Coleman  
6 telling me that somebody had told him that this  
7 investigation was not stopping with David Hale. I'm  
8 not sure which.

9 It goes on to say "indictment of initial  
10 indictment" and I don't know what that means. Then  
11 it says "take out loans from SBIC, SBIC salvage  
12 situations existed within Madison."

13 It says "may have parked bad loans with  
14 David Hale, knowledge." Then it says "Madison  
15 deal."

16 On the next page it says "easy source of  
17 dollars." That's a dollar sign "for politicians,  
18 easy dollars for people." Then it says "David Hale:  
19 Violation of 18 USC 371, regulatory fraud, regulatory  
20 functions." It says "10-year statute/five on others"  
21 and then it says "SOL."

22 It says "records, meetings taking place

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1 between principals involved."

2 Q Do you know what that refers to?

3 A I can't remember if he was talking about  
4 Tucker or if he was talking about the President or  
5 both, but I think he was saying the records would  
6 show that meetings had taken place between some of  
7 those people, and I don't recall which.

8 It says "'83/'84 time frame" and then it  
9 says "sole source relationship with Madison."

10 Q What does that refer to?

11 A To tell you the truth, I'm not sure. I  
12 think it may relate back to the comment about "may  
13 have parked bad loans with David Hale" on the first  
14 page, but I can't shed much more guidance on it than  
15 that.

16 Q What does the reference to South Loop refer  
17 to?

18 A South Loop, I believe, was one of Governor  
19 Tucker's real estate developments or perhaps a  
20 purported real estate development.

21 Q Did you have an understanding as of August  
22 19, 1993 that this was a real estate development in

- 1 which Mr. Tucker had some sort of an interest?  
2 A No, I did not.  
3 Q Had you ever heard of "South Loop"?  
4 A Not that I recall.  
5 Q What does "Castle Grande" refer to?  
6 A The same answer. I now know that Castle  
7 Grande is a real estate development that Tucker had  
8 an interest in, and it has been the subject of one of  
9 his indictments. I now know that there was  
10 involvement with Madison Guaranty. At the time I  
11 didn't know that.  
12 Q Do you know if Mr. Coleman knew Vincent  
13 Foster?  
14 A I can't answer that.  
15 Q Do you know whether -- do you have any  
16 recollection as to whether Mr. Coleman discussed  
17 touching base with as many folks as possible?  
18 A I don't recall so.  
19 Q Do you recall saying "I appreciate the  
20 heads up"?  
21 A It is possible I would have said that, but  
22 I don't recall doing so.
- 

- 1 Q Do you recall discussing the statute of  
2 limitations issue with Mr. Coleman?  
3 A Obviously, I did, yes.  
4 Q What do you recall about the statute of  
5 limitations discussion with Mr. Coleman?  
6 A Nothing more than what is put on this  
7 paper.  
8 Q Did you have any understanding as to  
9 whether Mr. Coleman was asking you to take any  
10 action?  
11 A There was a reason for Mr. Coleman's phone  
12 call to me. I presume he wanted something.  
13 Q Do you have any understanding as to what he  
14 wanted?  
15 A We never got that far.  
16 Q Since this conversation on August 19, 1993,  
17 have you ever spoken with Mr. Coleman?  
18 A No.  
19 Q Has Mr. Coleman attempted to contact you?  
20 A Not that I'm aware of, no.  
21 Q Do you know whether Mr. Coleman between  
22 August -- strike that.

1 Prior to the indictment of David Hale, do  
2 you know whether Mr. Coleman attempted to contact  
3 anyone else in the Clinton Administration?

4 A I have no knowledge of that. In other  
5 words, I don't know.

6 Q Do you have any understanding as to why  
7 Mr. Coleman contacted you?

8 A I mean, he knew me. He knew I existed. As  
9 to why he chose to call me, I don't know.

10 Q Between August 19, 1993 and September 21,  
11 1993, did you ever discuss anything Mr. Coleman had  
12 raised with you in the course of the conversation on  
13 the 19th with Mr. Nussbaum other than the  
14 conversation you testified to?

15 A I do not recall doing so, no.

16 Q Do you recall discussing the conversation  
17 with Mr. Coleman -- either conversation with  
18 Mr. Coleman with anyone else prior to Hale's  
19 indictment?

20 A We talked about mentioning it to Web  
21 Hubbell. We talked about doing that. Beth Nolan,  
22 and Bruce Lindsey after the press reports, but no.

1 Q Why didn't you discuss the conversation  
2 with Mr. Coleman with anyone else?

3 A It is not my job.

4 Q Were you at all concerned that there might  
5 be some possible exposure for the President with  
6 regard to these allegations?

7 A Was I? No. I did not consider them  
8 credible and still don't.

9 Q Did you contact anyone in the Eastern  
10 District of Arkansas with regard to -- strike that.

11 Did you contact anyone in the Department of  
12 Justice, including anyone at the U.S. Attorney's  
13 Office for the Eastern District of Arkansas about the  
14 conversation you had with Mr. Coleman?

15 A Web Hubbell was at the Department of  
16 Justice.

17 Q Other than Web Hubbell?

18 A No.

19 Q No contacts with the First Lady or her  
20 office?

21 A None.

22 Q Have you ever discussed with Mr. Hubbell

1 the fact that Mr. Coleman contacted Mr. Hubbell  
2 during the August-September -- July, August,  
3 September 1993 period?

4 A I think sometime much, much later, and  
5 again I could not tell you when, but I mean it may  
6 have even been this year. In the course of talking  
7 about many things, Web has told me that Randy Coleman  
8 tried to contact him. I have always taken that to be  
9 around the time that Coleman got ahold of me. Web  
10 said he never ultimately spoke to Randy Coleman.

11 Q About any subject matter?

12 A We were talking about in the context of  
13 this phone call you have been questioning me about.

14 Q Did he indicate to you that he had spoken  
15 to Coleman at all?

16 A If you are asking me has Web Hubbell ever  
17 spoken to Randy Coleman --

18 Q During this period, during the period July,  
19 August, September 1993, do you have any understanding  
20 as to whether Mr. Coleman ever spoke with  
21 Mr. Hubbell?

22 A As far as I know, he did not.

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1 Q Your belief for the statement that Mr. --  
2 strike that.

3 Is your understanding from your  
4 conversation with Mr. Hubbell that Coleman attempted  
5 to contact Mr. Hubbell during this period, July,  
6 August, September 1993 and that Mr. Hubbell did not  
7 speak with Mr. Coleman?

8 A That's my understanding, yes.

9 Q You base that on what you were told by  
10 Mr. Hubbell?

11 A Yes.

12 MR. COLE: Just to be clear, I think your  
13 testimony, Mr. Kennedy, was that your best  
14 understanding was that Mr. Hubbell had never spoken  
15 with Mr. Coleman about this matter, and beyond that  
16 you don't have any knowledge as to whether  
17 Mr. Coleman spoke with Mr. Hubbell?

18 THE WITNESS: What I'm trying to say is  
19 that talking to Web --

20 BY MR. GIUFFRA:

21 Q Has Mr. Hubbell --

22 A I would like to try to finish what I wanted



1 to say. Cutting to the chase, what I'm trying to say  
2 is I have no knowledge whether Web spoke to Randy  
3 Coleman about other matters. I just don't have any  
4 knowledge of that, but the conversation with Web, Web  
5 said Coleman tried to contact him and they never  
6 spoke and it is about this subject matter, this phone  
7 call.

8 Q It was your understanding from Mr. Hubbell  
9 that Mr. Coleman attempted to speak to Mr. Hubbell  
10 about the David Hale matter and was unable to contact  
11 Mr. Hubbell?

12 A You have put a gloss on it that I can't  
13 agree to. What Web said is that Randy Coleman tried  
14 to get in touch with him about it, that he tried to  
15 get in touch with him --

16 Q About some unspecified matter?

17 A Yes, because they never spoke. My  
18 conversation with Web arose talking about these  
19 matters.

20 Q So, just to sum up, your conversation with  
21 Mr. Hubbell, Mr. Hubbell indicated that during the  
22 period July, August, September 1993 Mr. Coleman

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1 attempted to contact Mr. Hubbell about some  
2 unspecified matters and they never spoke?

3 A Yes.

4 Q Do you have any knowledge as to whether  
5 Mr. Coleman attempted to contact Mr. Lindsey?

6 MR. COLE: Before we go on, I'm still  
7 unclear. I want the record to be clear on this,  
8 Bob. I think in listening to his response there is  
9 still some confusion here. What I heard him say that  
10 his understanding was limited to the fact that they  
11 never spoke about these matters. I think you are  
12 trying to put words in his mouth that he is saying  
13 they categorically never spoke. I don't think that  
14 is fair to this witness. His testimony will stand,  
15 but I want that on the record.

16 BY MR. GIUFFRA:

17 Q Let me ask the question again. Sometime in  
18 either '94 or '95 you had a conversation with  
19 Mr. Hubbell; correct?

20 A Yes.

21 Q The subject of the fact that Mr. Coleman  
22 had contacted you in August of 1993 came up in the

1 course of this conversation; correct?

2 A Yes.

3 Q Mr. Hubbell indicated to you that during  
4 this same time period, August 1993, thereabouts,  
5 Mr. Coleman attempted to contact Mr. Hubbell?

6 A Yes.

7 Q And Mr. Hubbell indicated to you that he  
8 never spoke with Mr. Coleman about any subject?

9 A No. Again, that he never spoke to  
10 Mr. Coleman in this time frame. Let me say it  
11 again. Whether Web and Mr. Coleman have talked about  
12 anything else, I don't have a clue, but when Web and  
13 I were discussing this and all the hoorah about it,  
14 and he said that Coleman had tried to contact him,  
15 and I think he said he returned the calls, but they  
16 never connected. Mr. Coleman could have been calling  
17 about something else.

18 Q Did Mr. Hubbell indicate to you that he had  
19 ever spoken to Mr. Coleman?

20 A No.

21 Q It was your impression from your  
22 conversation with Mr. Hubbell that they never spoke

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1 about anything?

2 A No. My impression was that they never  
3 spoke during this time frame, and again Web and I  
4 were talking about this. If you are asking me  
5 whether in January of 1993, for example, Randy  
6 Coleman called Web Hubbell, I can't answer that.

7 Q In the period July, August, September 1993,  
8 do you have any understanding as to whether  
9 Mr. Hubbell spoke with Mr. Coleman about any subject?

10 A I don't believe that he did.

11 Q That answered the question.

12 During the course of your conversation with  
13 Mr. Coleman, did he indicate -- strike that.

14 Do you know a man named Fletcher Jackson?

15 A No, not that I know of.

16 Q Did Mr. Coleman, during the course of  
17 either conversation that you had with him, say  
18 anything about the state of plea negotiations that  
19 were pending with the Eastern District of Arkansas  
20 U.S. Attorney's Office?

21 A No. All he said was that his client had  
22 not been indicted.

1 Q When did you learn of the indictment of  
2 David Hale?

3 A Press reports, time frame that I said. I  
4 thought it was a little bit short of a month, but you  
5 guys have indicated it was a little over a month  
6 since the time I talked to Randy. I learned about  
7 his indictment from press reports.

8 Q In the course of reading or hearing about  
9 those press reports, did you learn that Mr. Hale was  
10 making allegations about the President?

11 A The press reports indicated that he was.

12 Q Following the indictment of Mr. Hale, did  
13 you have any discussion with anyone at the White  
14 House about Mr. Hale?

15 A Just Bruce Lindsey.

16 Q Do you recall any other conversation with  
17 anyone?

18 A No.

19 Q You never discussed the matter with Bernie  
20 Nussbaum?

21 A Not that I recall, no.

22 Q Have you ever discussed David Hale with the

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1 President?

2 A One caveat. It is very likely that Bernie  
3 said, hey, you need to go brief Bruce, get him up to  
4 speed on this.

5 Q Why would he have said -- why do you have a  
6 belief that he said you got to brief Bruce about  
7 this?

8 A You have to respond to the press. To get  
9 somebody up to speed to respond to the press, you  
10 have to tell them what went on.

11 Q Mr. Lindsey was designated to respond to  
12 press inquiries with regard to Whitewater?

13 A He was -- again, don't hold me to that.  
14 I'm not sure exactly what he was designated to do. I  
15 was told he was the one who needed to know about  
16 this.

17 Q Have you ever spoken with the President  
18 about David Hale?

19 A No.

20 Q Have you ever spoken with the First Lady  
21 about David Hale?

22 A No.

1 Q Have you ever spoken with Margaret Williams  
2 about David Hale?

3 A No.

4 Q Have you ever spoken with Mack McLarty  
5 about David Hale?

6 A No.

7 Q Have you ever spoken with -- strike that.  
8 Do you know a man named Erskine Bowles?

9 A Yes.

10 Q Who is Erskine Bowles?

11 A At the moment I believe he is deputy chief  
12 of staff at the White House.

13 Q Prior to becoming Associate Counsel to the  
14 President, did you know Erskine Bowles?

15 A No.

16 Q Have you ever spoken with Erskine Bowles  
17 about David Hale?

18 A No.

19 Q Have you ever spoken with Erskine Bowles  
20 about anything having to do with Capital Management?

21 A No.

22 Q Do you have any understanding as to whether

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1 Erskine Bowles ever spoke with anyone at the White  
2 House, including the Clintons or Mack McLarty, about  
3 anything having to do with David Hale?

4 A No.

5 Q Do you know a man named John Spotilia?

6 A Spell the last name, please.

7 Q S-p-o-t-i-l-i-a.

8 A No, not that I know of.

9 Q Would it refresh your recollection if I  
10 advised you that he was the general counsel of the  
11 Small Business Administration during 1993?

12 A No. I'm sorry, I don't.

13 Q I will show you a document we obtained from  
14 the White House bearing Bates number S 738 -- 7382.  
15 Have you ever seen that document?

16 (Witness examined the document.)

17 A No, I have never seen this before.

18 Q Just for the record, this is a fax  
19 transmission sheet from the United States Small  
20 Business Administration. The recipient is Neil  
21 Eggleston, Esq., associate counsel, office of White  
22 House counsel. The fax is from John T. Spotilia,



1 Counsel, SBA, dated November 1993, and attached to  
2 the fax is a letter from the Honorable John LaFalce  
3 from Erskine Bowles.

4 I will show you another document, sir.  
5 This is a letter dated November 16, 1993 from  
6 Mr. Spotilia to Neil Eggleston, associate counsel,  
7 office of White House counsel. Unfortunately, the  
8 document does not have a Bates number. I believe we  
9 got it from the Small Business Administration.

10 (Witness examined the document.)

11 A The question is?

12 Q Have you ever seen that letter?

13 A No.

14 Q Have you ever had any discussions with  
15 anyone at the White House about obtaining information  
16 from the SBA relating to Capital Management Services?

17 A No.

18 Q Do you have any knowledge that information  
19 relating to Capital Management Services was provided  
20 by the SBA to the White House?

21 A No.

22 Q Did you ever discuss Capital Management

1 Services with Neil Eggleston?

2 A Not that I recall doing so, no.

3 Q Again, it would be your testimony you have  
4 no knowledge of any transmission of documents from  
5 the SBA to the White House?

6 A No.

7 Q In November of 1993?

8 A No.

9 Q Not something you have ever discussed with  
10 Mr. Nussbaum?

11 A No, not that I recall.

12 Q Mr. Kennedy, were you someone who  
13 normally -- strike that.

14 During the time you were associate White  
15 House counsel, would you have normally attempted to  
16 return all the phone calls you received during the  
17 course of the day?

18 A If they were from reporters, absolutely  
19 not.

20 Q I know that feeling myself.  
21 How about from someone like Web Hubbell?

22 A Yes, sir.

1 Q That would have been a call you would have  
2 returned relatively promptly?

3 A It is a call I would have returned.

4 Q Let me show you a document we received from  
5 the White House. It bears Bates number S 8008. Is  
6 that a message slip to you indicating a phone call  
7 from Web Hubbell?

8 (Witness examined the document.)

9 A Yes.

10 Q What is the time of the phone call?

11 A 4:20.

12 Q Do you have any recollection of speaking  
13 with Mr. Hubbell about anything having to do with  
14 your conversation -- strike that.

15 Do you recall returning this phone call to  
16 Web Hubbell on August 19th?

17 A I probably did. Specific recollection,  
18 no.

19 Q Do you have any recollection of speaking  
20 with Mr. Hubbell about anything that Mr. Coleman  
21 would have said on August 19, 1993?

22 A No. As I previously testified, I did speak

1 with Web about this, but it was later.

2 Q If you were communicating with Mr. Hubbell  
3 on a fairly regular basis, why would you have not  
4 mentioned this conversation with Mr. Coleman to  
5 Mr. Hubbell until sometime later?

6 A It either would have slipped my mind or  
7 something that I didn't consider important, I didn't  
8 have any particular need to.

9 Q Do you know a man named Mike Smith?

10 A I know a lot of Mike Smiths.

11 Q Do you know a Mike Smith at area code 212  
12 which I believe is New York City.

13 MR. COLE: I believe we will stipulate that  
14 for the record, it is New York City.

15 THE WITNESS: Mike Smith?

16 BY MR. GIUFFRA:

17 Q A document from the White House S 8034.  
18 Let me show you this document.

19 A It seems like he was a candidate for  
20 something, but don't hold me to that. I mean, if you  
21 all run down what 3341300 is.

22 Q During the time when you worked with the

1 Rose Law Firm, did you ever have any contact with  
2 somebody named April Breslaw?

3 A Did I?

4 Q Yes.

5 A No.

6 Q Did you have any understanding as to who  
7 April Breslaw is?

8 A From press reports I do. I know now.

9 Q Did there come a time when you learned of  
10 an RTC criminal referral relating to Madison  
11 Guaranty?

12 A Yes.

13 Q When was that?

14 A Whenever the first press reports came out.

15 Q Do you recall approximately when that was?

16 A I do not. If I had to guess, it would be  
17 September, October, November of 1993, but that's a  
18 guess.

19 (Pause.)

20 Q Let me show you a document. This is a memo  
21 to file from Bruce R. Lindsey dated October 20,  
22 1993. It bears Bates numbers 138, 139.

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1 Have you ever seen this memorandum?

2 (Witness examined the document.)

3 Q You are listed as a cc at the bottom of the  
4 memorandum.

5 A Yes, I have seen this.

6 Q When was the first time you saw this  
7 memorandum?

8 A I'm not sure. I presume I saw it shortly  
9 after it was written and it was cc'd.

10 Q Do you recall receiving a copy of this  
11 memorandum during the time when you were Associate  
12 Counsel to the President?

13 A Yes.

14 Q This would have been something that would  
15 have crossed your desk?

16 A Yes.

17 Q You would not have seen this memorandum --  
18 strike that.

19 It is your best recollection that you would  
20 have seen this memorandum sometime in October of  
21 1993?

22 A Yes.

1 Q And you recall reading the memorandum?

2 A Do I recall specifically? Of course not,  
3 but did I read it? Probably so.

4 Q Do you recall discussing the substance of  
5 this memorandum with anyone?

6 A No. I don't recall discussing the  
7 substance of it with anybody.

8 Q Do you have any understanding as to why  
9 you, Maggie Williams and Mark Gearan would have been  
10 cc'd on this memorandum?

11 A You would have to ask Bruce why he made  
12 these choices. As to why he chose Maggie Williams  
13 and Mark Gearan, I can't answer that.

14 Q What I would like to do, Mr. Kennedy, this  
15 will save some time and hopefully avoid the need to  
16 have you ever come to these confines again under  
17 these circumstances --

18 A Hear, hear.

19 Q -- just to ask you a number of other  
20 questions.

21 MR. COLE: He is setting this up, so I  
22 won't object to whatever he does, but I'm going to

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1 watch anyway.

2 Go ahead.

3 BY MR. GIUFFRA:

4 Q During the deposition that you gave to this  
5 committee on July 11, 1995, you indicated that you  
6 spoke to Mrs. Clinton about Whitewater Development  
7 Corporation. Do you have a recollection of that  
8 testimony? I believe you spoke to her during 1991.

9 A That's correct.

10 Q Do you recall the circumstances under which  
11 you spoke to Mrs. Clinton?

12 A That's Rose Firm-related. You are getting  
13 into the counsel issues. The Rose Law Firm has  
14 counsel. I was a member of the Rose Law Firm at that  
15 point in time, and I'm not prepared to discuss that  
16 at this point in time. My understanding -- and Paul  
17 you will have to kick in - 3341300 we were not going  
18 to go into that.

19 MR. GIUFFRA: Off the record.

20 (Discussion off the record.)

21 MR. GIUFFRA: We had some discussions off  
22 the record. A question arose as to whether we could



1 address matters relating to the Rose Law Firm.  
2 Counsel for the Rose Law Firm is not present here  
3 today, and we have agreed that matters relating to  
4 representation of the Clintons by Mr. Kennedy while  
5 he was with the Rose Law Firm are matters relating to  
6 the Rose Law Firm and not just to Whitewater, and  
7 therefore we will put those matters off for another  
8 day.

9 Does that fairly summarize our discussion?

10 MR. CASTELLITTO: Yes.

11 BY MR. GIUFFRA:

12 Q I believe you did discuss that we could  
13 ask, that questions would be permissible with regard  
14 to any knowledge Mr. Kennedy may have had with regard  
15 to Whitewater-related matters during the 1992  
16 Presidential campaign.

17 A I think so, yes.

18 Can we go off the record, please?

19 MR. GIUFFRA: Yes.

20 (Discussion off the record.)

21 MR. GIUFFRA: During the break, Mr. Kennedy  
22 advised us that he might have difficulty separating

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1 out his representation of the Clintons as a member of  
2 the Rose Law Firm with any work that he did as a  
3 volunteer, I suspect, during the 1992 Presidential  
4 campaign, and he will endeavor to the best of his  
5 ability to separate the two hats that he wore to the  
6 extent that they relate the Whitewater.

7 BY MR. GIUFFRA:

8 Q During the 1992 Presidential campaign, did  
9 you have any involvement with regard to the  
10 campaign's response to the Whitewater issue?

11 A Yes.

12 Q Briefly, could you describe what  
13 involvement you had with regard to Whitewater during  
14 the campaign?

15 A You can sum it up that I delivered some  
16 Whitewater-related records to the campaign.

17 Q Those were records that were maintained at  
18 the law firm?

19 A Let's just say they were records that were  
20 at the law firm.

21 Q At whose direction did you provide those  
22 records to the campaign?

1 A I either did that at the direction of  
2 Mr. Foster or Mr. Hubbell, and I'm sorry, I cannot  
3 tell you which one. I just don't recall.

4 Q Do you recall anything further about any  
5 communication you might have had with Mr. Foster or  
6 Mr. Hubbell with regard to those records?

7 A I probably reported back to whoever that I  
8 had done what had been asked of me.

9 Q Did you have any other involvement with  
10 regard to Whitewater during the 1992 Presidential  
11 campaign other than bringing these documents over to  
12 the campaign?

13 A Yes. I responded to requests for  
14 information from the campaign.

15 Q And those requests had to do with what  
16 subject matter?

17 A The development company, the real estate  
18 development company.

19 Q Do you recall who you spoke to on the  
20 campaign about the real estate development company?

21 A It was primarily an attorney by the name of  
22 Loretta Lynch, primarily. I also spoke with Jim

1 Lyon, albeit briefly.

2 Q What do you recall about any conversations  
3 you had with Loretta Lynch during the 1992  
4 Presidential campaign about Whitewater?

5 A I don't know Loretta's official capacity  
6 with the campaign, but she was evidently designated  
7 in some form or fashion to gather information, I  
8 presume so that the campaign could respond to  
9 Whitewater matters.

10 Q What do you recall about your conversation  
11 with Ms. Lynch?

12 A You can summarize all of them in that she  
13 was trying to make sense of the information contained  
14 in the records primarily and I was assisting her.

15 Q Do you recall what information she was  
16 trying to make sense of?

17 A I'm sorry. I don't recall the specifics of  
18 these conversations. I don't recall the specific  
19 questions she asked. I just don't, but they all had  
20 to do with, in my phrase, trying to get her arms  
21 around the development.

22 Q Were you a real estate lawyer or have a

1 background in real estate development law?

2 A I am a mergers and acquisition lawyer. In  
3 the context of that I deal with real estate a lot. I  
4 guess the answer to your question is yes.

5 Q During the 1992 campaign, did you discuss  
6 Whitewater with Mrs. Clinton?

7 A No.

8 Q During the '92 campaign, did you discuss  
9 Whitewater with Mr. Lindsey?

10 A No.

11 Q During the '92 campaign, did you discuss  
12 Whitewater with President Clinton?

13 A No.

14 Q What do you recall about your  
15 communications with Mr. Lyons about Whitewater?

16 A They were superficial. I don't -- he came  
17 to the law firm one day and was introduced to me as  
18 someone who, on behalf of the campaign, would be  
19 guiding the campaign's response to the  
20 Whitewater-related -- I don't know what the word  
21 is -- press reports is best, I guess, that very  
22 famous and very flawed Jeff Gerth article in the New

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1 York Times.

2 Q What do you recall about what he said to  
3 you about the response that the campaign would have?

4 A It was here is Jim Lyon, he is going to be  
5 working on this. We visited briefly. I had never  
6 met Jim before. I told him I would help him any way  
7 I could.

8 Q Do you recall anything more about the  
9 conversation you had with Mr. Lyons?

10 A At this point in time, no. Just hi, how  
11 are you, let me know what you need. He said he  
12 would. I may have talked to him, although I don't  
13 recall so. I may have talked to him on the phone  
14 once or twice, but again it would have been like  
15 Loretta Lynch; it would have been nuts and bolts  
16 questions.

17 Q Do you have any recollections as to what  
18 those nuts and bolts questions would have related to?

19 A They would have related to the current or  
20 sort of the status of the development at that point  
21 in time.

22 Q Do you recall any discussions with anyone

1 about -- strike that.

2 Do you recall any discussion with anyone  
3 during the '92 campaign about the extent to which the  
4 Clintons had -- strike that.

5 Do you recall any discussions during the  
6 1992 campaign with anyone about the extent to which  
7 the Clintons had made an investment in Whitewater as  
8 opposed to an investment being made by McDougal?

9 A No, I don't recall that subject coming up.

10 Q Do you recall any discussion of anything  
11 having to do with tax treatment of the Clintons'  
12 investment in Whitewater with anyone?

13 A No, I don't recall that topic coming up.

14 Q Did you discuss Whitewater with Mr. Foster?

15 A No, I did not.

16 Q Did you discuss Whitewater with  
17 Mr. Hubbell?

18 A Well, within caveat to my earlier  
19 response. One or the other, and I am not sure which,  
20 asked me to get these records to the campaign, and I  
21 cannot recall which. I know the request was framed  
22 along the lines of the campaign is trying to get a

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1 response together, that's why they need the records.

2 Q Do you recall any discussions with anyone  
3 at the White House with regard to Whitewater between  
4 January 20, 1993 and October 20, 1993?

5 A Can you repeat the question. I had trouble  
6 hearing you.

7 Q Between January 20, '93 and October 20,  
8 '93, do you recall any discussions you had with  
9 anyone at the White House with regard to Whitewater?

10 A As I indicated earlier, there were press  
11 reports Vince Foster killed himself on July 20th, and  
12 there were press reports shortly thereafter, but  
13 don't hold me to the date, about the fact that he had  
14 been working on Whitewater matters. I think I may  
15 have asked Bernie what Vince was doing, but I don't  
16 recall any other conversations with anyone.

17 Q Did Bernie indicate to you what Vince was  
18 doing with regard to Whitewater?

19 A Not in detail. He said he was working on  
20 tax returns, I recall.

21 Q Have you ever discussed Whitewater with  
22 Susan Thomases?



1 A No.

2 Q Have you ever discussed anything having to  
3 do with Whitewater with Jim Blair?

4 A No.

5 Q Have you ever discussed anything having to  
6 do with Whitewater with Betsy Recht?

7 A No, not that I recall.

8 Q Do you know Jim McDougal?

9 A I have met McDougal before. I would not  
10 consider him an acquaintance, and he may know me by  
11 name, but he doesn't know me. I met him a long, long  
12 time ago.

13 Q Do you know a man named Sam Huer?

14 A I have met him. He is a lawyer in Little  
15 Rock. As far as I know, he is still serving as  
16 McDougal's lawyer.

17 Q Have you ever spoken to Mr. Huer about  
18 anything having to do with Whitewater?

19 A No.

20 Q You testified that you had a  
21 conversation -- strike that.

22 You resigned as Associate Counsel to the

1 President when?

2 A It was at the end of November of 1994.

3 Q Have you -- do you know Marsha Scott?

4 A Yes.

5 Q Who is she?

6 A She works in the White House. At one point  
7 she was the director of presidential correspondence.

8 I don't know what her title is now. She works in the  
9 White House, in OLB.

10 Q Have you ever discussed Whitewater with  
11 Marsha Scott?

12 A Marsha is a good friend of mine. It is  
13 possible we discussed Whitewater in some oblique way  
14 in terms of the hoorah over Vince Foster's death, but  
15 the short answer is no specifics, no.

16 Q Do you have any understanding as to whether  
17 Ms. Scott has any friends -- strike that?

18 A One.

19 Q Do you have any understanding as to whether  
20 Ms. Scott spoke with anyone from the U.S. Attorney's  
21 Office for the Eastern District of Arkansas during  
22 1993?

1 A No, I have no knowledge whatsoever.

2 Q Have you ever spoken to Paula Casey  
3 yourself?

4 A I have not.

5 Q Do you have any understanding as to whether  
6 anybody in the White House spoke with Paula Casey  
7 during 1993 with regard to Whitewater or Madison?

8 A I have no knowledge whatsoever.

9 Q I apologize if I asked you this question.  
10 I don't think I did, though.

11 Between -- since January 20, 1993, have you  
12 discussed anything having to do with Whitewater or  
13 Madison Guaranty with Mrs. Clinton?

14 A No.

15 Q Have you discussed anything having to do --  
16 since January 20, 1993, have you discussed anything  
17 having to do with Whitewater-related matters with the  
18 President?

19 A No.

20 Q Since January 1993, have you discussed  
21 anything having to do with Whitewater Development  
22 Corporation and related matters with Bruce Lindsey?

1 A Well, I mean, David Hale has a  
2 relationship. So there is that.

3 Q That was the one conversation which  
4 occurred sometime in approximately September 23,  
5 1993?

6 A I need to confer with my counsel for a  
7 moment.

8 (Witness conferred with counsel.)

9 MR. CASTELLITTO: Can you read back the  
10 question, please.

11 (The reporter read the record as requested.)

12 (Discussion off the record.)

13 THE WITNESS: I'm going to recite what I  
14 remember the question to be, which is have you ever  
15 discussed Whitewater/Madison with Bruce Lindsey since  
16 January 20, 1993. And I have spoken about the David  
17 Hale contact. I attended a meeting in the offices of  
18 Williams & Connolly. I can't remember the date.

19 BY MR. GIUFFRA:

20 Q Do you remember if it was in 1993 or 1994?

21 A I think it was in November of 1993, but do  
22 not hold me to that.

1 Present were Bernie Nussbaum -- I can't  
2 talk about who was there, right?

3 MR. CASTELLITTO: You can identify who was  
4 there.

5 THE WITNESS: Me, Lindsey, Nussbaum, David  
6 Kendall, I think Jim Lyon, I think maybe a lawyer  
7 from Little Rock named Steve Engstrom.

8 BY MR. GIUFFRA:

9 Q Who is Steve Engstrom?

10 A He is just a lawyer from Little Rock?

11 Q Is he with the Rose Law Firm?

12 A No. He is with a firm called Wilson,  
13 Engstrom, Corham & Dudley.

14 There may have been one or two other people  
15 there; but one, I don't think so; and two, I can't  
16 remember if there were.

17 Q If I asked you what was -- let me ask you,  
18 what was discussed at that meeting?

19 A I am not prepared to answer that. My  
20 understanding is that the subject of that meeting is  
21 covered by the attorney-client privilege.

22 Q Mr. Kendall was representing the Clintons

1 in their personal capacity; correct?

2 A You would have to ask him as to what he  
3 perceives his capacity to be.

4 Q What was your understanding as to what  
5 capacity Mr. Kendall was representing the Clintons?

6 A You would have to ask him. My  
7 understanding is he was providing representations to  
8 the Clintons, but you would have to ask him.

9 Q You were Associate Counsel to the  
10 President; correct?

11 A Yes.

12 Q You were not personal counsel to the  
13 President and Mrs. Clinton?

14 A No, not at this time.

15 Q You were a government lawyer?

16 A Yes.

17 Q I guess the committee would take the  
18 position that a communication between a government  
19 lawyer and a lawyer for the President in his private  
20 capacity, those would not be privileged  
21 communications.

22 MR. CASTELLITTO: Take that up with the

1 White House.

2 BY MR. GIUFFRA:

3 Q The White House has instructed you not to  
4 discuss any communications between yourself and David  
5 Kendall?

6 MR. COLE: To be clear, is the instruction  
7 from the White House or from Mr. Kendall?

8 MR. CASTELLITTO: Let me clarify my answer  
9 to take it up with the White House and with  
10 Mr. Kendall.

11 MR. COLE: Just for the record, was  
12 Mr. Engstrom -- I believe this is a matter of public  
13 record since that time, but at that time was he  
14 providing legal counsel to the President and  
15 Mrs. Clinton?

16 THE WITNESS: I believe he was. The short  
17 answer is, I believe he was engaged in providing  
18 legal services to the President and Mrs. Clinton, but  
19 you would have to ask him.

20 BY MR. GIUFFRA:

21 Q Did Mr. Hubbell attend this meeting?

22 A I do not believe so.

1 Q Time would be late 1994, the time of the  
2 meeting?

3 A I think it is 1993.

4 Q Since January 20, 1993, have you had any  
5 discussions about Whitewater and related matters with  
6 Maggie Williams?

7 A Not that I recall, no.

8 Q Since January 20, 1993, have you had any  
9 discussions about Whitewater and related matters  
10 other than those you have testified to here today  
11 with Bernie Nussbaum?

12 A As to specifics, no. I want to be sure to  
13 get this on the record, however. I have had  
14 countless conversations with Bernie Nussbaum. It is  
15 likely that we discussed Whitewater in the sense that  
16 it was press related surely, but did we sit down and  
17 discuss the specifics of Whitewater? No. I mean, it  
18 is just too pervasive.

19 Q Since January 20, 1993, have you discussed  
20 Whitewater or related matters other than those --  
21 strike that.

22 Since January 20, 1993, other than contacts



1 you have already discussed for the record, have you  
2 discussed Whitewater or related matters with Neil  
3 Eggleston?

4 A What bothers me about the question is what  
5 is a related matter. I mean, you have to put some  
6 content in that.

7 MR. GIUFFRA: Okay.

8 THE WITNESS: Can we go off the record?

9 MR. GIUFFRA: Sure.

10 (Discussion off the record.)

11 THE WITNESS: My understanding is that have  
12 I ever discussed, since January 20, 1993, Whitewater  
13 or related matters with Neil Eggleston? I have never  
14 discussed the specifics of Whitewater or related  
15 matters with Neil Eggleston that I recall. As I  
16 indicated, I'm kind of concerned about what the  
17 definition of "related matters" is. Probably the  
18 general topic of Whitewater, I have probably talked  
19 with Neil about in some form or fashion.

20 BY MR. GIUFFRA:

21 Q During 1993-'94 -- strike that.

22 During '93, did you discuss with anyone at

1 the White House RTC criminal referrals relating to  
2 Madison?

3 A The time frame?

4 Q '93.

5 A I do not recall doing so.

6 Q So, you never discussed criminal referrals  
7 relating to Madison with Mr. Nussbaum?

8 A No.

9 Q You never discussed criminal referrals  
10 relating to Madison with Mr. Eggleston?

11 A I want to make the same caveat. The  
12 specifics, no. Did I have anything to do with that  
13 sort of thing, no. In the context of press reports  
14 or Bernie being up or down, Neil being up or down,  
15 having a hard day or what have you, on that basis  
16 possibly, but I do not recall discussing the  
17 specifics.

18 Q Your testimony would be that prior to the  
19 press reports about Treasury-White House contacts,  
20 for example, you would not have discussed such  
21 contacts with regard to Whitewater or Madison with  
22 anybody at the White House?

1 A Please repeat the question.

2 Q Maybe I should restate the question. It  
3 will be easier.

4 You are aware that there came a time in  
5 19 -- strike that.

6 You are aware that there came a time when  
7 there was press interest in the fact that there had  
8 been contacts between the White House and the  
9 Treasury Department with regard to RTC criminal  
10 referrals relating to Madison/Whitewater?

11 A Yes.

12 Q Prior to those press reports, did you have  
13 any communications yourself with anyone at the White  
14 House about those RTC criminal referrals?

15 A I do not recall doing so, no.

16 Q So, it would be your testimony, your best  
17 recollection is that the only communications you  
18 would have had with persons at the White House about  
19 RTC criminal referrals relating to Madison and  
20 Whitewater would have been at the time of press  
21 reports or press inquiries relating to such White  
22 House-Treasury contacts?

1 A Yes. If you phrase it that way, I think  
2 that is accurate.

3 Q Were you a member of the Whitewater  
4 response team that was put together in '93 --

5 A No.

6 Q -- at the White House?

7 A No.

8 Q I show you a document that we received from  
9 the White House. It has Bates number F 5154.

10 (Witness examined the document.)

11 Q Have you ever seen that document before?

12 A To be honest, I don't recall seeing this  
13 before.

14 Q You left the White House in November 1994.  
15 Did you have any role in preparing witnesses for the  
16 Congressional hearings that were held in the summer  
17 of 1994 with regard to Treasury-White House contacts?

18 A I did not.

19 Q So, you have no testimony to bring to bear  
20 with regard to the handling of certain transcripts  
21 relating to depositions taken by the Inspector  
22 General of the Treasury Department?

1 A No.

2 Q I show you a document received from the  
3 White House that bears Bates number S 8405. This is  
4 a calendar of Mack McLarty, February 1994. It  
5 appears to be February 11. Do you recall a meeting  
6 with Mr. McLarty, Mr. Nussbaum and Mr. Klein and  
7 Mr. Hubbell?

8 (Witness examined the document.)

9 A Do you know what Monday this is? It just  
10 says Monday, February 1994.

11 Q Not a good copy. Actually, I think it is  
12 probably the 14th.

13 No recollection?

14 A No, I'm sorry, I don't. I don't know what  
15 day that is.

16 Q Do you have any recollection as to why you  
17 were in a meeting involving Mr. McLarty, Mr. Hubbell,  
18 Mr. Klein and yourself in February of 1994?

19 A You may know more about that piece of paper  
20 than I do. I don't necessarily take that as a  
21 meeting. I will tell you this, that during this  
22 period of time, on Tuesdays there was a regular

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1 meeting with Web, Joel Klein, myself, and Bernie on  
2 various matters.

3 Q What were the matters that were discussed  
4 at those meetings?

5 A Just all sorts. It ran the gamut from  
6 Department of Justice appointments, which was the  
7 main reason I was there, to a whole number of  
8 things.

9 Q Were there discussions at these Tuesday  
10 meetings of Whitewater Development Corporation and  
11 related matters that you can recall?

12 A Not that I recall, no.

13 Q When did these meetings begin? Did they  
14 first start sometime in '93?

15 A No. I think they began shortly after Joel  
16 Klein took Vince Foster's place. I don't recall  
17 precisely when that was.

18 Q When did the meetings run until?

19 A Whenever Web started encountering his  
20 difficulties, and I can't tell you when that is.

21 Q What I would like to do is just briefly  
22 tick off some of the other subject matters in the

1 resolution, just to ascertain where you have  
2 knowledge and don't have knowledge. To the extent  
3 you have to come back here again, you will at least  
4 know what the bounds are.

5 I guess we have taken the position that if  
6 it has to do with something that you would have  
7 learned as a result of your work as a lawyer at the  
8 Rose Law Firm, you would like only to discuss those  
9 matters with a Rose Law Firm representative present?

10 A That is correct.

11 Q So that would encompass the Rose Law Firm's  
12 representation of Madison?

13 A Yes.

14 Q The Rose Law Firm -- strike that.

15 Do you have testimony to give with regard  
16 to the Rose Law Firm's representation of Madison?

17 A Can we go off the record for a moment?

18 MR. GIUFFRA: Yes.

19 (Discussion off the record.)

20 MR. GIUFFRA: What was the last question?

21 (The reporter read the record as requested.)

22 THE WITNESS: Possibly.

1 BY MR. GIUFFRA:

2 Q With regard to Whitewater Development  
3 Corporation you performed some legal services in your  
4 capacity as a Rose Law Firm lawyer in 1991?

5 A Yes.

6 Q Again, with respect to those matters, you  
7 want to have a Rose Law Firm representative present?

8 A That's correct.

9 Q With regard to Capital Management Services  
10 or David Hale, do you have any other testimony that  
11 you can provide to the committee?

12 A Other than what I have given you today,  
13 no.

14 Q Do you have any knowledge of any bond  
15 underwriting contracts involving something called the  
16 Arkansas Development Finance Authority and Lasser &  
17 Company?

18 A Possibly. The same type as indicated for  
19 the Rose Law Firm matters.

20 Q You would want to have a representative of  
21 the Rose Law Firm present before you answer that?

22 A I will tell you I won't be able to shed



1 hardly anything at all on that.

2 Q With regard to the matter in resolution  
3 that has to do with the Perry County Bank and its  
4 activities in connection with the '90 Arkansas  
5 gubernatorial campaign --

6 A I don't know anything about that other than  
7 what has been in the press.

8 Q You were not involved in the Clinton  
9 gubernatorial campaign?

10 A I may have made a contribution, but  
11 otherwise, no.

12 Q Have you ever discussed with -- have you  
13 ever discussed anything having to do with the Perry  
14 County Bank in the '90 gubernatorial campaign with  
15 Mr. Lindsey?

16 A In substance, no. He is a good friend of  
17 mine. I have been very concerned about him -- in  
18 brief, "how are you doing?" -- at that time, but  
19 substantively, no.

20 Q Have you previously had a chance to examine  
21 Senate Resolution 120?

22 A In detail, no.

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1 Q If you could just briefly examine the  
2 subjects specified in subparagraph B.1 and 2.  
3 Section 1.B.1 and B.2. I want to ascertain whether  
4 there is any other testimony you might be able to  
5 provide to the committee with regard to those subject  
6 matters other than what you have said at this  
7 deposition and at your prior deposition.

8 (Witness examined the document.)

9 A With regard to B.1, no. With regard to  
10 B.2, it is quite extensive, but no.

11 MR. GIUFFRA: Thank you very much, sir. I  
12 have no further questions.

13 EXAMINATION

14 BY MR. COLE:

15 Q Mr. Kennedy, I will be very brief. I know  
16 you have a plane to catch.

17 Mr. Giuffra asked you at the beginning of  
18 your testimony if after your first conversation,  
19 telephone conversation with Mr. Coleman when you  
20 reported to Mr. Nussbaum, Mr. Giuffra asked you if  
21 Mr. Nussbaum indicated that you should contact the  
22 Department of Justice, and I believe your answer was

1 that he did not; is that correct?

2 A That is correct.

3 Q Do you recall, sir, whether at that time  
4 you and Mr. Nussbaum had any concern that any contact  
5 from the White House to the Department of Justice  
6 might have at least the appearance of impropriety?

7 A Absolutely, absolutely.

8 Q I take it, sir, that the appearance of  
9 impropriety that might stem from a White House  
10 contact with the Department of Justice or, for  
11 example, the FBI was something you were quite  
12 sensitive to at that time?

13 A Yes, I was sensitive at that point in time  
14 about those type of contacts.

15 Q And so I am correct in understanding then  
16 that you and Mr. Nussbaum, as best you recall today,  
17 would have been of the view that it would have been  
18 inappropriate for the White House to contact the  
19 Department of Justice about this matter?

20 A Yes.

21 Q Mr. Giuffra also asked you whether you  
22 contacted Mr. Hubbell at or about the time of either

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1 of your conversations with Mr. Coleman, and I believe  
2 your testimony was that you did not at that time.

3 A As I indicated, I talked to Web after the  
4 fact, I think probably within a week, but not  
5 contemporaneously with those phone calls.

6 Q Mr. Giuffra also showed you a telephone  
7 message pad that was dated at about the time of these  
8 telephone conversations with Mr. Coleman and asked  
9 you whether that discussion might have related to the  
10 conversations you had with Mr. Coleman, and you said  
11 it did not, to the best of your recollection.

12 A That's correct.

13 Q Mr. Hubbell was an official at the  
14 Department of Justice at that time, was he not?

15 A Yes.

16 Q So, did you have any thought at that time  
17 that discussing this matter with Mr. Hubbell would  
18 have been inappropriate because of his status as an  
19 official at the Department of Justice?

20 A The short answer is probably so.

21 MR. GIUFFRA: Let me be sure about this.  
22 Is this something you had in your mind at the

1 time?

2 THE WITNESS: I'm struggling with how to  
3 answer this.

4 The question was put to me was why didn't  
5 you tell him. I didn't feel like it was my  
6 obligation to tell him. I didn't feel like it was my  
7 place to tell him. I didn't feel like there was any  
8 need to tell him.

9 I don't know if I can answer your question  
10 in the affirmative quite the way it was phrased, but  
11 I will refer you back to my earlier sort of global  
12 answer. I was sensitive about contacts with the  
13 Department of Justice, and that included  
14 Mr. Hubbell.

15 MR. COLE: That was what I was trying to  
16 get to with my question, Mr. Kennedy.

17 Thank you. I don't have anything further.

18 EXAMINATION

19 BY MR. GIUFFRA:

20 Q One quick question. Did either you,  
21 Mr. Nussbaum or Ms. Nolan consider drafting a memo to  
22 the files regarding the contact you had with

1 Mr. Coleman?

2 A It is not my practice to do that. I don't  
3 like them. I have done it hardly ever. I did not do  
4 it, and if he were to call today, I wouldn't do it.  
5 I did obviously preserve my notes.

6 Q Where were your notes preserved?

7 A I put them in a folder and kept them on my  
8 desk for a while. When the press reports hit, I had  
9 safes in my office. I put them in a safe. Then I  
10 began to get investigated by everybody and their dog,  
11 and I delivered copies of them to the Department of  
12 Justice.

13 Q Were any other documents contained in that  
14 folder?

15 A No. This was my folder.

16 Q The folder just contained these notes?

17 A Yes.

18 Q One last question. There have been reports  
19 of a document that was contained in Mr. Nussbaum's  
20 safe at or about the time of Mr. Foster's death that  
21 contained your name on the outside of the folder.  
22 Do you know anything about this folder or this

1 envelope?

2 A No. That question has been posed before.

3 I do not know about that.

4 Q You don't know what the -- you don't know  
5 whether there was such an envelope?

6 A I have never ever been inside Bernie  
7 Nussbaum's safe, I don't know what was in there.

8 Q Following Mr. Foster's death, Mr. Nussbaum  
9 didn't give you any envelope with your name on it  
10 that was contained in the safe in his office?

11 A No, not that I recall.

12 MR. GIUFFRA: Thank you very much for your  
13 cooperation. We very much appreciate your being  
14 here. We are sorry you have been put to the trouble  
15 of having to come from Little Rock.

16 MR. COLE: I would like to state for the  
17 record it was my understanding which, of course, was  
18 incorrect that this deposition was to start at 3:00.  
19 To the extent you and your counsel and Mr. Giuffra  
20 were kept waiting, I apologize for that. I regret  
21 the misunderstanding.

22 THE WITNESS: It is no problem.

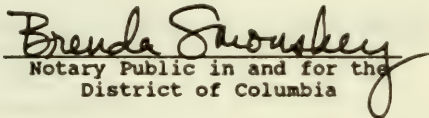
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1 (Whereupon, at 5:13 p.m., the deposition  
2 was concluded.)  
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5 WILLIAM H. KENNEDY, III  
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996



**DEPOSITION OF FRANCINE J. KERNER  
IN RE: S. RES. 120**

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**WEDNESDAY, OCTOBER 18, 1995**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
Washington, DC.**

Deposition of FRANCINE J. KERNER, called for examination pursuant to notice of deposition, at 9:53 a.m. in Room 124 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

**MICHAEL P. O'CALLAGHAN, Esq.**

Majority Associate Special Counsel

**ALICE S. FISHER, Esq.**

Majority Deputy Special Counsel

**JAMES S. PORTNOY, Esq.**

Minority Associate Special Counsel

**RICHARD BEN-VENISTE, Esq.**

Minority Special Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

**JOHN C. McDOUGAL, Esq.**

Special Litigation Assistant

Internal Revenue Service

Suite 100

2727 Enterprise Parkway

Richmond, Virginia 22209

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## PROCEEDINGS

Whereupon,

FRANCINE J. KERNER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

## EXAMINATION

BY MR. O'CALLAGHAN:

Q Good morning. My name is Michael O'Callaghan. I'm an associate special counsel for the Special Committee on the Majority side. This deposition today is conducted pursuant to Senate Resolution 120. The Resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters.

Specifically, section (1)(b)(2)(e) of Resolution 120 authorizes the investigation and public hearings into whether the report issued by the Office of Government Ethics on July 31, 1994 or

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related transcripts of deposition testimony, one, were improperly released to White House officials or others prior to their testimony before the Committee on Banking, Housing and Urban Affairs pursuant to Senate Resolution 229 or, two, were used to communicate to White House officials or to others confidential RTC information relating to Madison Guaranty Savings & Loan Association or Whitewater Development Corporation. That's primarily going to be the focus of today's deposition.

This deposition is in advance of public hearings, which are most likely going to begin next week. I believe I verbally notified counsel that you will most likely be called to testify and you'll probably be receiving a formal notification shortly.

MR. MC DOUGAL: Do you have any idea of dates yet, because I've got grand jury the first two days of next week?

MR. O'CALLAGHAN: Why don't we discuss that once we've finished with the depo. As I said, I just got your fax number last night.

BY MR. O'CALLAGHAN:

1 Q Okay. Today we're going to ask you a  
2 series of questions, and you're going to be  
3 testifying under oath. You've already been sworn.  
4 If you don't understand a question, let me know or  
5 Mr. Portnoy know and we'll be happy to rephrase the  
6 question. If you want to take a break at any time  
7 let us know and we'll be happy to accommodate you.

8 The stenographer is going to prepare a  
9 record of questions and answers. The deposition will  
10 be treated as committee confidential until the  
11 commencement of the hearings, and we also ask that  
12 you keep the contents of the deposition confidential  
13 as well.

14 MR. MC DOUGAL: Excuse me, I just want to  
15 interject. I understand from talking to some of my  
16 counterparts at Treasury that it is our position that  
17 we're not bound by confidentiality rules. That's  
18 just our position. I wanted to state that for the  
19 record.

20 MR. O'CALLAGHAN: You're not agreeing to  
21 the request to keep contents of the deposition  
22 confidential?

1 MR. MC DOUGAL: That's correct. We don't  
2 have any present intention to go around talking to  
3 people about it, but we don't feel that we should be  
4 bound by any confidentiality rule. And, of course,  
5 you're free to explore with any witnesses in your  
6 depositions or at the hearing or whatever who they've  
7 talked to and under what circumstances.

8 BY MR. O'CALLAGHAN:

9 Q Thank you. Okay. Prior to the  
10 commencement of the hearings, you'll receive a letter  
11 from the Committee telling you that you can come to  
12 the Senate to review your transcript of this  
13 deposition and make any corrections you need to make  
14 on an errata sheet. If you are called to testify at  
15 public hearing you'll also be permitted to have a  
16 copy of your deposition transcript four days in  
17 advance of your testimony and pursuant to signing a  
18 confidentiality agreement, which we -- which -- it's  
19 attached to every deposition transcript that's  
20 provided to different witnesses and that has to deal  
21 with keeping them in a secure place and also sharing  
22 of information. That would be attached with the

1 letter.

2 If you have any questions about that at a  
3 later time we can discuss that as well.

4 MR. MC DOUGAL: We can deal with that when  
5 the time comes.

6 BY MR. O'CALLAGHAN:

7 Q You may be represented by counsel. Are you  
8 represented by counsel today?

9 A Yes.

10 MR. O'CALLAGHAN: And, Counsel, please  
11 state your name and firm or agency.

12 MR. MC DOUGAL: Yes. My name is John C.  
13 McDougal and I'm a special litigation assistant with  
14 Internal Revenue Service, district counsel's office  
15 in Richmond, Virginia.

16 MR. O'CALLAGHAN: Are you representing  
17 Ms. Kerner in a personal capacity or are you  
18 representing the Department?

19 MR. MC DOUGAL: I'm representing her in her  
20 official capacity, so to that extent I guess the  
21 Department as well.

22 BY MR. O'CALLAGHAN:

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1 Q Objections to the form of questions will be  
2 noted for the record. Counsel may object on grounds  
3 of privilege or relevance and the Committee Chairman  
4 may rule on objections where the witness refuses to  
5 answer a question.

6 Could you please state and spell your full  
7 name for the record.

8 A It's Francine J. Kerner, K-e-r-n-e-r, and  
9 that's my professional name. My married name is  
10 different.

11

12

13

14

15 Q Your present business address?

16 A 2070 Chain Bridge Road, Falls Church,  
17 Virginia.

18 Q And who --

19 A Vienna, excuse me, Vienna, Virginia.

20 Q Who are you currently employed by?

21 A The financial crimes enforcement network,  
22 which is an agency of the Department of Treasury.

1 Q Ms. Kerner, did you go to law school?

2 A Yes.

3 Q Where did you go to law school? When did  
4 you graduate?

5 A New York University School of Law. I  
6 graduated in 1974.

7 Q Could you please give a brief description  
8 of your employment history since you graduated from  
9 law school.

10 A Yes. From 1974 to 1979 I was an assistant  
11 district attorney, Kings County, Brooklyn, New York  
12 under Eugene Gold. When I left the office I was an  
13 assistant in the major offenses bureau. In 1979 I  
14 came down to Washington, D.C. to serve as counsel to  
15 the first Inspector General at the Department of  
16 Commerce, Mary Bass. I worked in the Inspector  
17 General's office for Sherman Funk, who was a Reagan  
18 presidential appointee, who promoted me into the  
19 senior executive service. He then moved on to the  
20 State Department and I worked for Frank DeGeorge, who  
21 was a Bush presidential appointee. And then I worked  
22 from 19 -- I think DeGeorge was Bush. He may have

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1 been Reagan, too. In 1989 I moved from the Inspector  
2 General's office to the general counsel's office  
3 where I worked on a variety of sensitive matters.

4 Q Is this still at Commerce?

5 A This is still at Commerce. I received a  
6 Silver Medal Award from Secretary Mosbacher for work  
7 I did on the new standards of conduct, the new  
8 governmentwide standards of conduct. I also received  
9 an attorney of the year award from Wendell Wilkie,  
10 III for a variety of matters I handled, including  
11 those that involved Secretary Mosbacher's immediate  
12 office.

13 In 1992 I applied for, competed for and was  
14 selected for the position of counsel to the Inspector  
15 General at the Department of Treasury. The selection  
16 was made by Don Kirkendall, a Reagan presidential  
17 appointee, and I stayed on in that position until  
18 April of '95 when I moved out to FINCEN, the  
19 financial crimes enforcement network, as deputy  
20 counsel at FINCEN.

21 And the reason I mention whether or not  
22 these people are presidential appointees and who



1 they're appointed by is to explain to you what I hope  
2 you'll understand which is that I'm a career civil  
3 servant who has worked under a number of different  
4 administrations, both Democrat and Republican.

5 Q Okay. Thank you. Are you aware that the  
6 Committee's document requests were made to the Office  
7 of Inspector General at the Department of Treasury?

8 A Yes.

9 Q Did you search for responsive documents,  
10 notes, reports and memoranda in connection with those  
11 requests?

12 A Well, I did at the point that I was told  
13 you wanted to know what I personally had.

14 Q Okay.

15 A The IG's office originally made the  
16 production. Everything I had in my possession, with  
17 the exception of a couple of documents, were things  
18 that the IG's office had and so I wasn't asked to  
19 produce anything. I wasn't tasked with the  
20 responsibility for producing anything. Then  
21 subsequently, I was told by Lori Vassar that the  
22 Committee wanted to see what I had in my office at

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1 FINCEN. So then I did search my office at FINCEN and  
2 came up with copies of documents that I had there.

3 Q And you said Treasury IG's office had all  
4 the documents, all your documents except for a couple  
5 of documents?

6 A Right.

7 Q And what were those documents?

8 A Well, there's one document that involves a  
9 communication I had with a reporter when I was out at  
10 FINCEN -- and that was something I did when I was out  
11 at FINCEN, I'm not even sure it fell within the  
12 Committee's request, but I have that. And, you know,  
13 within the last couple of weeks I also started to  
14 gather documents, newspaper articles relating to  
15 Whitewater. And those were things that I recollect,  
16 you know, I gathered myself in the last couple of  
17 weeks that the IG's office wouldn't have had.  
18 There's also an October 13th memo that I did to Brad  
19 Buckles that the IG's office would have gotten a copy  
20 of on October 13th because I cc'd Lori Vassar.

21 Q Is that 1995?

22 A 1995.

1 Q Anything else?

2 A I do have a copy of the report in my office  
3 at FINCEN that's still in the bubble jacket and I  
4 didn't bring that in. That's the public, redacted  
5 version of the report.

6 Q Of the OGE report?

7 A Of the IG report.

8 Q IG.

9 A What I have in my office is a matter of  
10 public record on file with the IRS public reading  
11 room. It's in a bubble jacket still.

12 Q It's a copy of the IG report or is it --

13 A It's the IG report, what the IG publicly  
14 released to the public. When we did our chronology  
15 and the transcripts, that's a public document, the  
16 transcripts in a redacted form.

17 Q Released by Treasury Inspector General's  
18 office --

19 A Right.

20 Q -- or by Department of Treasury?

21 A No, the IG made it a public document in the  
22 public reading room of the IRS, and gave it out

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14

1 freely to the media. We had dozens of copies  
2 published, and I think there's even an E-mail in the  
3 papers about that.

4 Q And for today's deposition, you brought  
5 some documents with you as well?

6 A That's right.

7 Q Could you explain what you've done.

8 A Well, I've decided -- during this whole  
9 process I've thought about how to organize the  
10 records so that I would be able to answer your  
11 questions and find material effectively. In any  
12 event, last week when I read that there was a  
13 question about shredding of documents, and since I  
14 hadn't gotten a copy from the IG's office of what  
15 they produced to you, I decided that I would Bates  
16 stamp my own documents and produce them to the  
17 Committee, and that's what I've done. So I've Bates  
18 stamp numbers 1 through 2242.

19 Now, this does not include the public  
20 report, which is still in the bubble cover, I haven't  
21 opened it -- I just took an unopened copy of the  
22 report with me to my office -- and it also doesn't

1 include any of the newspaper articles that I  
2 collected over the last couple of weeks, but I've  
3 brought a copy of the newspaper articles for you to  
4 see. They're not Bates stamped but you are free to  
5 have a copy, you know. This is from LEXIS/NEXIS  
6 searches.

7 Q And where did these documents come from?  
8 Did you have them at home or were they from your  
9 office?

10 A Well, I had them in my office at FINCEN.  
11 While working on preparation for this deposition I've  
12 brought some of them home and I've also had them down  
13 at main Treasury.

14 Q And when you went over to FINCEN in April  
15 of 1995, did you transfer all the documents you had  
16 with you from your previous position over to FINCEN?

17 A Only selected documents. I certainly took  
18 a number of documents relating to the IG's  
19 investigation with me to FINCEN.

20 Q Can you explain why you did that?

21 A Because there would be questions and I knew  
22 that, and, you know, it's common to take documents

16

1 with you that you may be consulted on. It's still a  
2 Treasury agency, I'm still a member of the Treasury  
3 Department, an employee of the Treasury Department.  
4 If I had been leaving for the private sector, I don't  
5 know that I would have taken the same approach.

6 MR. MC DOUGAL: Excuse me. Just for  
7 clarification sake, are you asking about original  
8 documents or photocopies that she took with her?

9 MR. O'CALLAGHAN: Either one.

10 THE WITNESS: I only took photocopies.  
11 Thank you. I never took original documents.

12 BY MR. O'CALLAGHAN:

13 Q And you said that Treasury IG's office had  
14 almost all the documents you had so you didn't  
15 conduct a personal search at the time of the requests  
16 that were made to Treasury IG's office; is that  
17 correct?

18 A I don't even know when you made that  
19 request exactly.

20 Q But you didn't make a personal search at  
21 that time?

22 A Not at that time, no, I did not. Nobody

1 asked me to.

2 Q Who conducted the search of your documents  
3 for the request?

4 A At the point that I was asked to produce  
5 documents?

6 Q Correct.

7 A I did.

8 Q No, at the point the Committee requested  
9 documents be produced in September.

10 A Nobody asked -- excuse me. In September  
11 you made a request. Now you are telling me something  
12 that I'm not sure I was aware of because I didn't  
13 know the date when you made the request. The IG made  
14 production of documents at that time. They decided  
15 whether or not they needed to consult me to assist  
16 them in making production. I did not receive a call  
17 from them asking me to make any production.

18 Q And you were no longer there; is that  
19 right?

20 A That's right.

21 Q So you weren't consulted about the  
22 production?

1 A I was told by Rick Doery in a casual  
2 conversation that he had agreed with the Committee to  
3 produce everything that had been produced to the  
4 independent counsel and that he had all that material  
5 and that he had produced it to you.

6 Q Okay. When had documents been produced to  
7 independent counsel?

8 A I don't remember.

9 Q Is that when you were still at counsel of  
10 the Treasury IG?

11 A Yes. I mean, there are documents I have  
12 that would tell me that. I seem to recall it may  
13 have been November, but there may have been a  
14 subsequent request as well. But don't -- could you  
15 excuse me. Can I consult with counsel on this?

16 MR. O'CALLAGHAN: Certainly.  
17 (Witness conferred with counsel.)

18 MR. MC DOUGAL: The witness has reminded me  
19 that we may -- I may be supposed to object to  
20 inquiries of communications made between IG and  
21 independent counsel and I believe she's correct on  
22 the matter. I think Treasury has withheld from you



1 documents such as correspondence between Treasury  
2 counsel or IG counsel and the independent counsel.  
3 And to the extent communications would impinge on the  
4 same area we should object on privilege grounds, I  
5 guess.

6 MR. O'CALLAGHAN: And I'm not asking  
7 questions into the substance of the communications.  
8 These are just generally if the communications took  
9 place and when they took place. We'll generally  
10 refrain from asking questions on the substance of the  
11 communications.

12 MR. MC DOUGAL: Thank you.

13 BY MR. O'CALLAGHAN:

14 Q You said that took place in November of  
15 what year?

16 A '94. That was -- there were many  
17 communications spanning over a period of months. You  
18 know, we've raised an objection to going into further  
19 detail, but the first communication was in November.

20 Q And just if you could give me a general  
21 description of the search that was conducted for the  
22 documents at that time, like what files were

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1 accessed, whether it was just files in the office,  
2 files at home?

3 A Well, the IRS was asked to assist the IG's  
4 office in making production at that time. My whole  
5 office was searched, the offices of others were  
6 searched as well. My disks were searched, the  
7 computer was searched. Didn't have any documents at  
8 home at that time. Let's see.

9 Decisions on production were made by Rick  
10 Doery. He was responsible for making productions and  
11 deciding whether or not documents were responsive.  
12 He had the assistance of a couple of other IG people  
13 who were brought in to assist him and worked with the  
14 IRS team.

15 Q Okay. What was Rick Doery's position at  
16 that time?

17 A He was deputy counsel to the Inspector  
18 General.

19 Q And was he your deputy at the time?

20 A Yes.

21 Q Who else assisted him in the production?  
22 You said there were a couple other IG people who

1 helped him out?

2 A I'm blanking on their names. I know that  
3 he'll remember their names. I just don't remember  
4 the names of the people.

5 Q If they come to you later on, please feel  
6 free to let me know.

7 A I will. They were not in the counsel's  
8 office. They were not in my office, those people who  
9 assisted him.

10 Q What did you do to prepare for today's  
11 deposition?

12 A Well, I reviewed documents 1 through 2242.  
13 I did a NEXIS search of newspaper articles relating  
14 to Whitewater/Madison. I spoke to attorneys about  
15 preparation for the hearing, for the deposition and  
16 subsequent hearing. I think that's generally what I  
17 did. I also made additional copies. During this  
18 process of preparing, I originally thought that I  
19 would divide documents, up into different categories  
20 and cross-reference documents so that there are more  
21 duplicates here than I may even have given to the  
22 IG's office on October 13th. I would say about half

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1 this batch of documents is duplicates.

2 Q You delivered some documents to the IG's  
3 office on October 13th?

4 A Yes.

5 Q Of this year?

6 A Yes.

7 Q And how did that come about? Was that a  
8 request they made?

9 A Well, first, I was talking to Brad Buckles,  
10 and I told him what Rick Doery had told me, that the  
11 Committee had agreed, in terms of an IG production,  
12 to just those materials that had been produced to the  
13 independent counsel. And I said to Brad that I  
14 thought that I had copies of other documents that I'd  
15 want to refer to during the deposition. He promptly  
16 said that those documents, whatever they were, should  
17 be produced by the IG's office, and I didn't disagree  
18 with him.

19 At that point, I believe he went down to  
20 speak to Lori Vassar about producing those  
21 documents. Independently of that, I heard that  
22 someone else within the IG's office had additional

1 documents that they wanted to refer to during their  
2 deposition. So the next thing I knew, I was being  
3 asked by Lori Vassar to produce anything that I had  
4 personally, and I promptly complied with that  
5 request.

6 Q Okay. You said someone else in the IG's  
7 office had other documents that they wanted to refer  
8 to. Who was that?

9 A I don't know.

10 Q And what documents were you expecting to  
11 refer to that hadn't been produced to independent  
12 counsel?

13 A I think the internal communications between  
14 myself and some of the -- well, only the other  
15 members of the IG's staff. Those were the  
16 documents. Primarily copies of correspondence,  
17 things that dealt with how the IG conducted the  
18 inquiry rather than simply, you know, the transcripts  
19 going over to the White House.

20 Q And when did you inform Mr. Buckles that  
21 you had an interest in referring to those documents?

22 A Shortly after he told me that I had been --

1 that the department had been notified that they  
2 wanted to -- that the Committee wanted to depose me.  
3 I think it was in that same conversation.

4 Q Did you describe to him the nature of the  
5 documents that you wanted to refer to?

6 A No, I don't believe I did. I think I said  
7 some documents.

8 Q Do you maintain any documents that are  
9 related to the IG investigation or OGE report at your  
10 residence or at home?

11 A No. I've told you that periodically when  
12 I've worked on things there have been documents at my  
13 home and that in prepping for this hearing I had  
14 documents at my home, but to the best of my knowledge  
15 they're not there now. You know, FINCEN is -- my  
16 home is about midway between FINCEN and downtown.

17 Q But you don't maintain any work files at  
18 home?

19 A Absolutely not.

20 Q Other than speaking to counsel, did you  
21 speak with anyone else prior to the deposition with  
22 regard to the deposition?

- 1 A Many people.  
2 Q And who did you speak with?  
3 A I can't remember all the people I've spoken  
4 to. I spoke to my mother, I spoke to my husband -- I  
5 mean, I've spoken to a lot of people.  
6 Q Did you speak with anyone at Treasury IG?  
7 A I've spoken to Rick Doery, I've spoken to  
8 Lori Vassar. I saw Bob Cesca in the hallway and I  
9 asked him how it went. He said that you were very  
10 pleasant. I asked him whether my name came up and he  
11 said everybody's name came up. So that was the  
12 extent of my conversation with Bob. I think he also  
13 called me at one point to refresh his recollection on  
14 a particular issue, and I can't remember what it was  
15 that he called me to ask me about. I told him the  
16 answer and that was the end of it.  
17 Q Did you discuss the substance of his  
18 deposition other than what you just described?  
19 A No.  
20 Q Have you talked to anyone else who has  
21 appeared before the Committee?  
22 A Yeah, I spoke to Bob McNamara and I spoke

- 1 to Steve McHale. These are people I've seen on a  
2 regular basis throughout the last year of my life.  
3 Q Did you discuss the substance of  
4 Mr. McNamara's deposition testimony?  
5 A He just passed one remark that he laughed  
6 about, saying that you had asked him whether or not  
7 he had intimidated me at one point and he made a  
8 reference to a medication adjustment. I guess that  
9 was amusing so he conveyed that to me.  
10 Q Anything else?  
11 A No.  
12 Q How about Mr. McHale?  
13 A Mr. McHale and I -- well, come to think of  
14 it, I didn't really ask him about his deposition.  
15 Q Did you discuss it at all?  
16 A The one thing that he and I have discussed  
17 over the course of the last year is the events of  
18 July 23rd and how many phone calls there were and  
19 what people said during the phone calls.  
20 Q Did he discuss with you his discussions of  
21 July 23rd during the deposition?  
22 A No. He just -- no, he didn't.



1 Q Did you talk to Mr. Schmalzbach at all?

2 A No, I've seen him in the hallway. I've  
3 said hello. I haven't spoken to him about it.

4 Q Did you have any other discussions with  
5 Mr. McHale other than what you have described?

6 A I have conversations with him all the time.

7 Q With regard to his deposition?

8 A No.

9 Q Did you have conversations with anyone at  
10 the White House with regard to your deposition today?

11 A No.

12 Q Anyone at the Resolution Trust Corporation?

13 A No.

14 Q Have you spoken with Mr. Knight about your  
15 deposition?

16 A No.

17 Q About his deposition?

18 A No. I did have a passing word with him  
19 about representation, but it really was not a  
20 substantive conversation. He told me I didn't have  
21 to worry about representation, that I could do a fine  
22 job of representing myself. I just laughed.

1 Q During the period March through August 1994  
2 you were counsel to the Treasury IG; is that correct?

3 A Yes.

4 Q Who did you report to at that time?

5 A Well, I reported to Bob Cesca, who was the  
6 acting Inspector General, and Dennis Foreman, who was  
7 the deputy general counsel. My office was located  
8 around the corner from Bob Cesca's office. Robert  
9 Cesca is his formal name, of course, but I refer to  
10 him as Bob. And on a periodic basis -- weekly, maybe  
11 once every two or three weeks -- I would see Dennis  
12 Foreman. I saw Bob on a regular, daily basis. I got  
13 all my assignments from Bob Cesca.

14 Q Is there a mechanism or an organizational  
15 structure that's been put in place to ensure that the  
16 Treasury IG office is independent from the Department  
17 of Treasury?

18 A The Inspector General's Act of 1978.

19 Q Is the --

20 A As amended, because the Treasury IG wasn't  
21 statutory at first so there was an amendment in the  
22 '80s bringing the Treasury IG under the banner of

1 the Inspector General Act of 1978. Then, in  
2 addition, there are various orders and directives  
3 dealing with the IG's office.

4 Q Are those departmental?

5 A Yes.

6 Q Who did Mr. Cesca report to during the  
7 March, August time frame?

8 A Well, he was the acting IG, so he was under  
9 the general supervision and direction of the  
10 Secretary or the Deputy Secretary.

11 Q And how about Mr. Foreman?

12 A Mr. Foreman reported to Jean Hanson --  
13 well, actually when I first came on board he reported  
14 to Jean Hanson's predecessor.

15 Q During the March, August time frame?

16 A Archibald, Jan Archibald, spelled, I think,  
17 Jan, J-a-n.

18 Q During the March through August 1994 time  
19 period it was Jean Hanson; is that right?

20 A I don't know when she came on board. That  
21 sounds about right. Well, she would have come on  
22 board as of at least September of '93, so she was on

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1 board then, yes. I didn't know her before she came  
2 on board.

3 Q Does the Office of Inspector General  
4 generally advise the Office of General Counsel with  
5 regard to status of investigations that are ongoing?

6 A It depends.

7 Q Could you explain more fully? It depends  
8 on what?

9 A It depends on who's being investigated and  
10 what the arrangements are that have been agreed to.

11 Q During the March through August time  
12 period, 1994, were there any employees in the  
13 Inspector General's office that had specific  
14 reporting duties to the general counsel's office?

15 A Well, I reported to the general counsel.

16 Q Anyone else?

17 A Well, I suppose you'd say my staff reported  
18 to the general counsel.

19 Q And who was on your staff at that time?

20 A Rick Doery, Sharon Separ.

21 Q Could you spell that last name?

22 A S-e-p-a-r. And Christine,

1 C-h-r-i-s-t-i-n-e, Bak-Brevik. I think it's A-n-n,  
2 B-a-k, dash, B-r-e-v-i-k.

3 Q When did you first learn -- again, this is  
4 1994, when did you first learn that the Treasury IG's  
5 office was going to ask to participate in helping the  
6 Office of Government Ethics prepare an ethics review  
7 of possible improper White House-Treasury contacts?

8 A I don't recall. Sometime in the late  
9 winter/early spring time frame.

10 Q Do you recall how you found out about it,  
11 who told you or whether you received documents?

12 A No, I don't recall.

13 Q What was your understanding of the role  
14 that the Treasury IG's office was to play in  
15 conducting investigation for preparation of the OGE  
16 report?

17 A They were going to conduct the  
18 investigation, OGE was going to provide guidance on  
19 what questions needed to be asked and whom they  
20 believed needed to be interviewed, and the IG would  
21 conduct the interviews, come up with some sort of  
22 chronology that OGE would be able to use in order to

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1 render an opinion on whether any ethics violations  
2 had been violated.

3 Q And who participated in the investigation?

4 A Excuse me?

5 Q Who participated in the investigation, the  
6 conduct of the investigation, Treasury Inspector  
7 General's office, were there other offices of the  
8 government that were involved?

9 A RTC Inspector General's office.

10 Q Did one agency have a lead role or --

11 A Treasury.

12 MR. PORTNOY: Treasury Inspector General's  
13 office?

14 THE WITNESS: Yes. And it was the RTC OIG  
15 that was conducting the investigation jointly with  
16 the Treasury OIG.

17 BY MR. O'CALLAGHAN:

18 Q What's your understanding that Treasury  
19 had -- Treasury IG had a lead role, were they  
20 specifically given the lead role or was it a logical  
21 role for them to have?

22 A It was Secretary Bentsen who asked that the

1 investigation be done, and it was OGE who said that  
2 they felt a portion of the investigation needed to  
3 include interviews of the RTC personnel. Then I  
4 believe Secretary Bentsen sent a letter to Ryan, the  
5 head of the RTC, asking that the RTC OIG's office  
6 assist us in conducting the inquiry. I think on a  
7 practical basis the investigators also agreed that  
8 Jim Cottos would lead the investigation. He's the  
9 Assistant Inspector General for investigations at the  
10 Treasury IG's office.

11 Q That was investigators from both offices?

12 A Excuse me?

13 Q You said the investigators agreed that  
14 Mr. Cottos would run the investigation?

15 A Yes, the head investigators. I don't mean  
16 the staff people, I mean at the management level.

17 Q And who are you referring to?

18 A Who agreed?

19 Q Correct.

20 A I don't remember the names of the RTC  
21 participants.

22 Q Do you recall who at the RTC worked on the

1 investigation?

2 A I'm having a hard time hearing you. I  
3 think it's the noise.

4 Q I apologize. The air conditioning vent is  
5 above my head.

6 Who do you recall at the RTC worked on the  
7 investigation from the IG's office over there?

8 A Well, I remember the counsel, Pat Black  
9 worked on aspects of it. Neither one of us did any  
10 questioning of witnesses. That was left to the  
11 special agents. Both Inspectors General, the acting  
12 Inspector General at Treasury, Bob Cesca, and Jack  
13 Adair, the Inspector General at RTC, they  
14 participated. Both their AIGIs participated. I  
15 think the deputy IG also participated. There were  
16 two female investigators that participated and Fred  
17 Coco and Dan O'Rourke from the IG's office  
18 participated.

19 Q From the Treasury IG's office?

20 A Yes.

21 Q Was there one person who was mainly  
22 responsible for coordinating the work done by both



1 IGs' offices?

2 A Jim Cottos.

3 Q You said you learned in late winter early  
4 spring about a possible participation of Treasury  
5 IG's office in the investigation for the OGE report;  
6 is that correct?

7 A Uh-huh, yes.

8 Q At that time, had any goals of the  
9 investigation been identified -- or can you tell me  
10 when goals started being mapped out for what the  
11 investigation was meant to produce?

12 A Well, that was fairly early, and we hadn't  
13 gotten the go-ahead yet from Fiske to proceed with an  
14 investigation. We were going to be doing a  
15 management investigation, an administrative  
16 investigation, not a criminal investigation. Fiske  
17 was doing the criminal investigation. That's a very  
18 important distinction between a criminal  
19 investigation where the Department of Justice has the  
20 lead in ensuring that, you know, procedures are  
21 followed in accordance with their guidelines, and a  
22 management inquiry, which is what we were doing,

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1 that's being done for the benefit of the managers of  
2 the agency.

3 Now, in this particular case, Secretary  
4 Bentsen had originally asked OGE, the Office of  
5 Government Ethics, to render an opinion as to whether  
6 any ethics standards were violated. So that  
7 immediately put us in the framework of the standards  
8 of conduct which appear at CFR part 2635. So the  
9 scope of our inquiry was whether or not any ethics  
10 violations had been violated by the transfer of  
11 information between Treasury employees and White  
12 House employees.

13 Q Are we looking at employees from both  
14 groups or specifically Treasury or specifically White  
15 House?

16 A Specifically Treasury.

17 Q Okay. You said the investigation was put  
18 on hold because of Mr. Fiske's investigation; is that  
19 correct?

20 A Well, I don't think it ever started. I  
21 think we consulted Fiske first, and he said please  
22 don't do it.

1 Q Did there come a time when he said it was  
2 okay to go ahead with the investigation?

3 A Yes.

4 Q Okay. Between the time, say, March of 1994  
5 and the time Mr. Fiske gave the go-ahead to begin the  
6 investigation, were there any activities related to  
7 preparing for the investigation that went on?

8 A Yeah, there were a couple of activities  
9 that went on. There was at least one meeting with  
10 OGE, maybe two. There was a meeting with Ken  
11 Schmalzbach and Dennis Foreman and Bob Cesca and  
12 myself. There was a meeting with Bob McNamara and  
13 Ken Schmalzbach in May. I also raised the issue with  
14 Dennis Foreman about my reporting chain in  
15 preparation for the inquiry. Those were the steps  
16 that I can recall off the top of my head, and I  
17 wouldn't call them steps in the sense that they  
18 weren't planned out. These were events that occurred  
19 during that period of time.

20 MR. MC DOUGAL: Could we confer for just  
21 one second.

22 MR. O'CALLAGHAN: Sure.

1 (Witness conferred with counsel.)

2 THE WITNESS: Towards the end when we knew  
3 Fiske was about finished, because we had been getting  
4 word on when he'd issue something, I started looking  
5 at records that had been collected by the attorneys  
6 in the general counsel's office that were assigned to  
7 work on this on behalf of the Secretary. There was a  
8 group of attorneys within the general counsel's  
9 office who were not reporting to Dennis Foreman or  
10 Jean Hanson for these purposes of assisting the  
11 Secretary in finding out what occurred. Those  
12 attorneys were McNamara, McHale and Ken Schmalzbach.  
13 And those were the people that I was dealing with.

14 BY MR. O'CALLAGHAN:

15 Q Okay. With regard to the OGE meetings that  
16 were done before the investigation was initiated, do  
17 you recall what the contents of the discussions were?

18 A Only if they're reflected in E-mails that I  
19 wrote at the time.

20 Q Do you have a general recollection of --

21 A It was one in which they came over and told  
22 us that they wanted RTC to be involved. And then

1 there was one meeting when I went over to their  
2 office and asked them what they thought needed to be  
3 reviewed in terms of the ethics standards, what  
4 possible violations they thought might have occurred  
5 and what questions they considered important in  
6 rendering an opinion. That's what I recall.

7 Q Okay. Did any of these meetings involve  
8 people from the RTC IG's office and Treasury IG's  
9 office meeting together with the OGE people or was  
10 OGE meeting with --

11 A Well, initially I think they met  
12 separately, that's what I recall -- but then there  
13 came a point in time when we all met together over at  
14 the OGE offices, but that was later on after the  
15 investigation had begun. I don't recall any earlier  
16 meeting in which we all sat down together.

17 Q Okay. Now, you mentioned a meeting with  
18 Mr. Schmalzbach, Mr. Foreman and Mr. Cesca; is that  
19 right?

20 A Yes.

21 Q Do you recall when that took place?

22 A I think it was in May.

1 Q And what was the purpose of that meeting?

2 A Well, it's reflected in an E-mail. I'd  
3 like to refresh my recollection.

4 Q I'd like to just try to get a general  
5 impression first.

6 A It was -- I really don't have any  
7 independent recollection without looking at the  
8 E-mail to refresh my recollection.

9 MR. MC DOUGAL: Excuse me, I'd like to  
10 interject a relevancy objection at this point. She's  
11 going to answer all of your questions, don't  
12 misunderstand, but I think, for the record, I'd like  
13 to observe that it's my understanding the charge of  
14 the Committee is to inquire into events at the close  
15 of the investigation, including specifically the  
16 turnover of certain transcripts to the White House.

17 And up to now we've been talking about  
18 background of who knew what and who she reported to.  
19 Now we seem to be getting into the conduct of the  
20 investigation and it's Treasury's position that  
21 that's not relevant within the scope of the inquiry  
22 here.

1 MR. O'CALLAGHAN: It's noted. Thank you.

2 BY MR. O'CALLAGHAN:

3 Q I'd like to show you Bates stamp -- a  
4 document bearing the Bates stamp 330 and 331. It's a  
5 two-page document. It appears to be an E-mail dated  
6 May 13th, 1994 from Francine Kerner to James Cottos.  
7 I'll show it to you and your counsel.

8 (Witness reviewed the document.)

9 A Yes, that's a document I prepared.

10 Q Okay. After reviewing this document, does  
11 it refresh your recollection about the general  
12 contents of the discussion at a meeting you may have  
13 had on May 13th?

14 A Yes.

15 Q What's your recollection of the discussion?

16 A Well, my recollection is that we talked  
17 about a variety of things: When we could begin the  
18 investigation, how quickly OGE would render an  
19 opinion, how the interviews would be conducted,  
20 whether or not we would have access to White House  
21 personnel and also the issues of the diary  
22 productions by Steiner and Altman.

1 Q Did Mr. Foreman ever have a role in the  
2 investigation once it was started?

3 A No, absolutely not.

4 Q Did he have a role in preparing for the  
5 investigation?

6 A I don't know what you mean by that.

7 Q Well, it appears here there's a meeting  
8 with you and Mr. Cesca and Mr. Foreman. There are  
9 discussions -- there are discussions regarding the  
10 upcoming investigation; is that correct?

11 A That's correct.

12 Q My question is, did Mr. Foreman have a role  
13 in helping organize or coordinate the investigation?

14 A He came up for this meeting and I think  
15 it's important to note that he was not the subject of  
16 the investigation. He was the designated agency  
17 ethics attorney, and insofar as he may have been  
18 consulted for advice on a particular meeting in  
19 February between Altman and employees at the White  
20 House he was going to be interviewed, but he was not  
21 viewed as the subject of the interview. The subjects  
22 were viewed as Roger Altman and Jean Hanson. They



1 were the people who had had conversations over at the  
2 White House.

3 Now, after this, my conversations with  
4 Dennis Foreman on this matter related to my being  
5 insulated from the general counsel's office as far as  
6 the reporting chain.

7 Q Okay. Just focusing on May 13th, did  
8 Mr. Schmalzbach have a role in helping organize or  
9 coordinate the investigation?

10 A You know, that question is very open  
11 ended. Let me back up here. Neither Mr. Foreman nor  
12 Mr. Schmalzbach had any role in deciding who we would  
13 interview. Neither Mr. Foreman nor Mr. Schmalzbach  
14 had any role in deciding what questions would be  
15 asked of witnesses. Neither Mr. Schmalzbach nor  
16 Mr. Foreman had any role in scheduling witnesses.  
17 They had Mr. Foreman had no role in reviewing our  
18 report. Mr. Schmalzbach got copies of the  
19 transcripts at some point after people had given  
20 sworn depositions.

21 He also, through Steve McHale, gave us some  
22 comments on the chronology, which we will get into

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1 later, I'm certain. But in any event, Mr. Foreman  
2 and I did not talk to one another from the start of  
3 the investigation until after it was concluded  
4 sometime in August, with the exception of one  
5 conversation he and I had in which he wanted to  
6 produce a verified copy of his transcript. And he  
7 called me up -- called the IG's number and the IG's  
8 number rolled over to my number, so I could pick up  
9 the phone calls. I picked up the phone and it was  
10 him and he said he wanted to bring down his verified  
11 transcript, and I said, do me a favor, just put it in  
12 the mail or have it walked down in the morning.

13 So there was a period of several months  
14 when he and I did not talk at all about anything.

15 Q Okay. Did Mr. Schmalzbach have any role at  
16 all -- I mean, you said he wasn't involved in  
17 scheduling interviews or --

18 A No. I mean, I don't know what other role  
19 there could be. I've explained to you, he was one of  
20 the staff attorneys who had been chosen to represent  
21 the Secretary. As you know, we were doing an inquiry  
22 involving the Deputy Secretary and the general

1 counsel. The Secretary, Secretary Bentsen, had to  
2 turn to someone in order to get legal advice and  
3 counsel. He turned to his career civil servants, Bob  
4 McNamara, Schmalzbach and Steve McHale. Those are  
5 the people I was dealing with on liaison issues with  
6 the general counsel's office.

7 For instance, there was a -- I requested of  
8 Mr. Schmalzbach a legal opinion. OGE wanted us to  
9 ask certain legal questions of the general counsel's  
10 office and I sent him a request for legal opinion.  
11 That's something else that was done. I forget the  
12 date exactly. I think that was in June. But when  
13 you say was he involved in the investigation, my  
14 answer to that would be no.

15 Q Okay. Specifically, to make my question --  
16 just looking at this document, it says "in  
17 anticipation of the OGE inquiry, Bob Cesca and I met  
18 with Dennis Foreman and Ken Schmalzbach." And I'm  
19 just -- I guess what I'm trying to get at is why was  
20 Mr. Schmalzbach involved in a meeting with you  
21 Mr. Cesca, Mr. Foreman --

22 A Because the Department was the one who was

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1 dealing with Fiske to a large extent. They had to  
2 call Fiske about getting the go-ahead for the White  
3 House to review Treasury documents. They were the  
4 ones who had collected -- Mr. Schmalzbach's office  
5 was the office that had collected the documents that  
6 were responsive to Mr. Fiske's original subpoena.  
7 The question was when would the IG's office be  
8 allowed to look at those documents. Again, that was  
9 a matter that they were helping to get permission for  
10 from Fiske.

11 This E-mail is a summary of everything  
12 substantive that was discussed at that meeting, and  
13 its purpose was to apprise Jim Cottos so that he  
14 would be up to date, and his deputy, Raisa Cesario.  
15 So once we were getting the go-ahead from Fiske,  
16 Mr. Schmalzbach was out of the picture.

17 Q You said Mr. Schmalzbach, that was  
18 Mr. Fiske?

19 A In terms of when we could go forward with  
20 our investigation, yes. I also dealt with  
21 Mr. Fiske's office, but at a later point in time.

22 Q Is that after you got the go-ahead?

1 A May have been on the verge of getting the  
2 go-ahead.

3 Q Did Mr. Knight also deal with Mr. Fiske?

4 A Yes, I believe so. I didn't know  
5 Mr. Knight. I didn't meet him until the day the IG  
6 report was publicly issued. I wouldn't have known  
7 what he looked like except I think his picture is in  
8 the vestibule of the building, but I had no contact  
9 with him whatsoever until the day the IG report was  
10 issued with the OGE report. And at that time, of  
11 course, he was the executive secretariat to Secretary  
12 Bentsen.

13 Now, you remember -- let me just make this  
14 point. It was the Secretary who wanted this report  
15 done. He wanted it done. He wanted it done in a  
16 timely fashion for the hearings, and therefore he was  
17 the one, I guess, and his staff, who felt that --  
18 they wanted to make certain that there was no delay  
19 in getting the go-ahead from Fiske.

20 Q Now, was there anyone specifically at  
21 Treasury who was given responsibility to try to make  
22 sure that there wasn't any unnecessary delay in

1 getting the go-ahead?

2 A I think that was Mr. Knight. Only because  
3 I know there's an E-mail in my papers saying that  
4 Mr. Knight would be talking to Mr. Fiske about my  
5 getting access to documents. Also, it's Mr. Knight  
6 who got a copy from Mr. Fiske of the press release  
7 that Fiske issued on June 30th, I think it was. So  
8 working backwards, I assume the contact was going on  
9 between Mr. Knight and Mr. Fiske.

10 Q You said -- am I correct that you said that  
11 once the go-ahead was obtained from Mr. Fiske, that  
12 Mr. Schmalzbach was out of the picture?

13 A As far as helping us with regard to the  
14 initiation of the investigation. I think I've  
15 already explained earlier that I continued to deal  
16 with him on a variety of matters.

17 Q You said that Mr. -- I mean Mr. Bentsen or  
18 Secretary Bentsen had turned to Mr. Schmalzbach as  
19 someone to give him counsel with regard to the White  
20 House-Treasury contacts; is that correct?

21 A Yes.

22 Q And do you know specifically what he was

1 asked to do, what type of services he was asked to  
2 provide, what kind of consultation?

3 A He was representing the Department  
4 vis-a-vis the Hill along with Bob McNamara and Steve  
5 McHale. He was representing the Department in  
6 conversations with the White House along with Bob  
7 McNamara and Steve McHale. He was interacting with  
8 Ed Knight and Mike Levy, the assistant secretary for  
9 legislative affairs at that time. Those were his  
10 responsibilities. There was no question in my mind  
11 that those were his responsibilities.

12 Q I mean, was he acting as a liaison or was  
13 he --

14 A I can't define it more than that, really.  
15 You know, I never sat down with him and said give me  
16 a list of things you are supposed to be doing, but it  
17 became clear over the course of the period of time  
18 that we interacted with one another that that was, in  
19 fact, what he was doing.

20 Q Did he ever tell you he was one of the  
21 people responsible for helping the Secretary prepare  
22 for testimony?

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1 A I knew that he was. I don't know that he  
2 told me that.

3 Q And how did you know that?

4 A I really don't remember. I just can state  
5 with certainty that I knew it.

6 Q Okay. Do you know when you became aware of  
7 that?

8 A Probably sometime around the date that  
9 Secretary Bentsen was going to be interviewed by the  
10 IG's office. But in terms of preparing generally for  
11 the hearings, I knew that much earlier.

12 Q Why do you think you became aware of it  
13 about the time the Secretary was going to be deposed  
14 by the IG?

15 A I don't remember.

16 Q You don't have a specific recollection?

17 A No.

18 Q Or general recollection?

19 A No, I don't. I'm sorry.

20 Q Do you want to take a five-minute break?

21 A Sure.

22 (Recess.)



1 BY MR. O'CALLAGHAN:

2 Q During June of 1994, do you recall whether  
3 you had any conversations with Mr. Schmalzbach with  
4 regard to preparing for the investigation?

5 A Well, during June. June 30th we began the  
6 inquiry, and the question was whether or not -- one  
7 of the primary questions was when, not whether or  
8 not, but when the IG's office would gain access to  
9 the transcripts -- not the transcripts, the  
10 deposition -- not the depositions. The papers that  
11 they had.

12 Q The documents?

13 A Documents, thank you, thank you. There may  
14 have been other conversations that I had with him. I  
15 don't recall off the top of my head.

16 Q During the May-June period 1994, did you  
17 have any contact with anyone at the White House  
18 counsel's office?

19 A There's an E-mail from McNamara to me that  
20 gives me Jane Sherburne's telephone number, and it  
21 was after that that I first had some contact with  
22 Jane. I don't remember the date off the top of my

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1 head, but that fixes it.

2 Q Okay. And what were the contents of the  
3 first discussions you had with Ms. Sherburne?

4 A The first big discussion was July 5th in  
5 which she came over to my office and we met with Pat  
6 Black and Sheila Cheston to see how we were going to  
7 proceed in gaining access to White House documents  
8 and witnesses.

9 Q Did you ever have any discussions with her  
10 or anyone at the White House counsel's office prior  
11 to that in June?

12 A Well, I had to have had a discussion to set  
13 up the July 5th meeting and there may have been some  
14 telephone conversations, nothing was resolved. The  
15 first meeting at which there was a resolution of  
16 issues was July 5th.

17 Q When was a decision made that the  
18 investigation would include taking interviews and  
19 then creating transcripts from the interviews?

20 A That was early. I don't know specifically  
21 when that was, but I do know it was clear as we began  
22 that that's the way we were going.

1 Q Did you have any discussions with  
2 Ms. Sherburne or anyone in the White House counsel's  
3 office about transcripts that were going to be  
4 produced as a result of the investigation and any  
5 interest the White House might have in them?

6 A Sure.

7 Q Okay.

8 MR. PORTNOY: In what time frame?

9 BY MR. O'CALLAGHAN:

10 Q I'm talking -- sorry, June to March or  
11 March to June '94.

12 A I don't recall what the nature of my  
13 conversations were with Jane Sherburne before July  
14 5th except insofar as I had never met her before  
15 either, and now we were going to be dealing with this  
16 issue. We wrote them a letter, the White House,  
17 asking for access to documents and witnesses.

18 Q Was that a July 1st letter?

19 A Yeah, it might have been.

20 Q During June, did you have any discussions  
21 before you wrote the letter?

22 A Well, I had discussions before I wrote the

1 letter. I would have had discussions before I wrote  
2 the letter, that's correct. I don't remember the  
3 nature of those discussions. We certainly did not  
4 resolve any of the issues during those discussions.

5 Q Did she ever relate to you that the White  
6 House counsel's office was also conducting an  
7 investigation?

8 A Yes, we knew that. I don't think she  
9 related that to me. I don't know how I found that  
10 out.

11 Q Were there any discussions with regard to  
12 sharing information to facilitate the investigations  
13 you were conducting?

14 A The July 1st letter was written by the IGs  
15 asking for access to documents and witnesses. Then  
16 there was the meeting on July 5th in which we talked  
17 a little bit further about sharing information.  
18 Before that, I don't have any independent  
19 recollection of what the nature of our conversations  
20 were except that nothing was resolved prior to that  
21 time.

22 Q Do you recall the general topics of the

1 discussions before July 1st?

2 A When we would get access to witnesses and  
3 documents. I mean, that was what we were talking  
4 about.

5 Q Was the specific subject of transcripts  
6 brought up, or prospective transcripts rather?

7 A I don't recall any conversation with her  
8 about transcripts until July 5th. Now, I'm not  
9 saying that there wasn't a conversation, I'm just  
10 saying that I don't have independent recollection of  
11 one.

12 Q Was there any discussion about the White  
13 House participating or being present in any of the  
14 interviews?

15 A I know that the E-mail you showed me, the  
16 May 13th E-mail, suggests that is a possibility.  
17 That wasn't based on any conversation with Jane  
18 Sherburne, that was based on what Schmalzbach and  
19 others had -- and Foreman and I and Bob discussed on  
20 the May 13th meeting.

21 I think by July 5th it was clear to  
22 everyone concerned that the White House would not sit

1 in on our interviews. This was an evolving process.  
2 We were trying to get the job done. And, you know,  
3 people were putting forth ideas of how we might best  
4 get the job done, and, you know, at some point it was  
5 decided we would do the interviews, we would have  
6 transcripts of the witnesses and that we would make  
7 those transcripts public as part of our report at the  
8 end of the process. That we knew going in.

9 Q Did Mr. Schmalzbach have contact with the  
10 White House counsel's office with regard to the  
11 investigation?

12 A I have no idea. I assume that he spoke to  
13 Jane. I would say positively he spoke to Jane  
14 Sherburne. What the nature of those calls were, what  
15 the two of them discussed, I have no idea.

16 Q Did he ever relate to you the substance of  
17 any discussions he had with Ms. Sherburne?

18 A No, but I may have jointly been at one or  
19 more of the conversations. There were occasions when  
20 there may have been a three-way conversation, but I  
21 think that that occurred later, much later at the  
22 point where we were into the hearings already. And,

1 you know, the point here from my perspective is the  
2 White House, Cutler's office and the Secretary, they  
3 were getting ready for the hearings. So  
4 Mr. Schmalzbach would be talking to Cutler's staff,  
5 and we were doing an investigation that involved the  
6 White House personnel, so we would be talking to  
7 Mr. Cutler's staff.

8 Q Was the understanding that the report that  
9 was going to be produced by the -- as a result of  
10 your investigation was being done also to facilitate  
11 the Secretary's preparation for testimony in front of  
12 Congress?

13 A Yes.

14 Q Was there a dual purpose for doing the  
15 investigation --

16 A I never thought of it as a dual purpose.  
17 We were doing an investigation because the Secretary  
18 asked us to do one. He didn't know what had  
19 transpired, he wanted to know. It was a management  
20 investigation. He wanted to know whether he needed  
21 to take any corrective action, disciplinary action,  
22 impose new procedures for communicating between

1 Treasury and the White House. These were things that  
2 he wanted to determine, and he asked us to assist  
3 OGE, first and foremost, in determining whether or  
4 not there were any ethics violations. And, of  
5 course, this was all being done in the context of  
6 scheduled House and Senate hearings.

7 So there was never any question that the  
8 report was being used to assist the Department in  
9 preparing for the hearings, to provide a factual  
10 basis on which OGE could render an opinion. Those  
11 were the purposes as I saw them -- and to acquaint  
12 Congress and the public with what had occurred. And  
13 I felt personally that that was a very important  
14 aspect of what we were doing, and that anything which  
15 was created by us, since it was a management report,  
16 was going to be made public.

17 Q Okay. Was there an individual outside the  
18 IG's office who was a designated contact for you to  
19 keep Treasury up to date on how the investigation was  
20 going and whether it was on schedule?

21 A No.

22 Q Anyone from the Secretary's office who took



1 an active interest in that?

2 A No. I mean, I spoke to Ken Schmalzbach and  
3 Steve McHale and Bob McNamara. Remember, one of the  
4 things that needed to be coordinated was when the  
5 Senate committee was deposing witnesses versus when  
6 we were deposing the witnesses, the production of the  
7 transcripts, the production of the final report, the  
8 opinion of OGE, all within a very short time frame.  
9 I think we interviewed something on the order of  
10 between 20 and 25 witnesses, and there was just a lot  
11 of things that needed to be handled in that period of  
12 time.

13 Q So they helped with scheduling and getting  
14 those other things together?

15 A Well, the scheduling of the witnesses for  
16 the IG depositions was mainly my responsibility.  
17 That was mainly my responsibility. They had no --  
18 Ken Schmalzbach, Bob McNamara and Steve McHale took  
19 no part in the IG investigation. They didn't make  
20 suggestions -- after that May 13th meeting they were  
21 not making suggestions on how our investigation  
22 should be conducted in any way, shape or form. They

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1 just didn't do it.

2 Q Did you have contact with them about the  
3 status of the investigation after May 13th?

4 A Yes, they wanted copies of the transcripts.

5 Q Any other conversations about --

6 A I had many conversations with them. I know  
7 that I saw them. My office was right on top of  
8 theirs, a floor up.

9 Q You are talking physically?

10 A Physically. Physically. And there was --  
11 you know, you'd pass in the hallway and you'd say,  
12 you know, Altman had his second day of depositions at  
13 the Senate hearing, and I'd say, yeah, he's scheduled  
14 for us on whatever day. I mean, there was a lot of  
15 casual conversation that went on. The formal  
16 conversation revolved around when they would get  
17 copies of the transcripts in order to start reading  
18 those transcripts to be able to assess what had gone  
19 on.

20 See, originally our report -- the final  
21 report was put out -- I guess -- let's see, when was  
22 it? I think it was -- it would have been the 30th.

1 I think we issued our final report on the 29th. The  
2 original plan, though, was to have the report done  
3 about a week earlier. That was originally the hope,  
4 to have it done before the beginning of the House  
5 hearings so for them to get all of the transcripts on  
6 the eve of the House hearings in one fell swoop, they  
7 wanted an opportunity to read it -- read the  
8 transcripts and assimilate the material, and they  
9 knew they couldn't do that within a 24- or 48-hour  
10 period. So that was the main concern of the  
11 attorneys that I've mentioned, Schmalzbach, McNamara  
12 and McHale, getting access to the IG transcripts.

13 Q Did you ever have a conversation or any  
14 conversations with Mr. Schmalzbach with regard to  
15 whether White House counsel was going to be sitting  
16 in on the interviews?

17 A Well, there's a note from May 13th, which  
18 we went over a few minutes ago, in which that was  
19 obviously discussed. They didn't take any position  
20 on that. They just wanted to get the thing done. No  
21 one was saying we want you to have White House  
22 counsel sit in on your interviews or we don't want to

1 have you have White House counsel sit in on your  
2 interviews. It was a question of under what  
3 circumstances would the White House make witnesses  
4 available to us and were they going to demand that  
5 someone sit in during the interviews, and if they did  
6 make such a demand what would our response be.

7 These were things that were discussed  
8 within the IG's office, but in the end it turned out  
9 that there was no need to proceed that way. We  
10 proceeded as was the most desirable, namely, it was  
11 an IG team who interviewed the witnesses without  
12 anyone from the White House present, without anyone  
13 from the general counsel's office present and that's  
14 the way the transcripts were created.

15 Q But Mr. Schmalzbach and McHale and others  
16 had an interest in monitoring progress of the  
17 investigation, right, because they were interested in  
18 getting transcripts?

19 A Well, if you mean -- when you say  
20 "monitoring progress," okay, if you mean did I give  
21 them or were they asking for a report on what a  
22 witness said, if that's what you mean by "monitoring"

1 the investigation --

2 Q I'm just talking general updates on how it  
3 was progressing --

4 MR. PORTNOY: Let's let Ms. Kerner finish.

5 MR. O'CALLAGHAN: I want her to answer my  
6 question first.

7 THE WITNESS: Well, I guess I'm a little  
8 nervous when you say "monitoring" the investigation  
9 because that has implications to it. And I don't  
10 know what your implication is when you ask me that  
11 question.

12 Insofar as they wanted to know that we were  
13 making progress, there was no question about that. I  
14 would tell them things are going well. Things are  
15 progressing. We're -- you know, things are fine.  
16 Insofar as what did Ms. Hanson say, what did  
17 Mr. Altman say, no, they never asked such a question,  
18 nor would I have provided them with the information  
19 if they had asked. They were only interested in a  
20 time frame that would permit the Secretary to have  
21 access to the information he needed and OGE to have  
22 access to the information it needed in order to

1 produce a report.

2 BY MR. O'CALLAGHAN:

3 Q Okay. And I'm just trying to get an idea  
4 for like, you know, how often or periodically you  
5 spoke to them during the course of the investigation  
6 with regard to status of it.

7 A No, no. You have two questions there. How  
8 often I spoke to them during the course of the  
9 investigation: I might have seen these people every  
10 day, but that was no different than what had  
11 previously gone on. I mean, I worked with these  
12 people.

13 Q With regard to the investigation?

14 A With regard to the investigation, during  
15 that period of time, I had regular communications  
16 with them whenever an issue arose that needed to be  
17 discussed. I can't remember anything specific except  
18 for the very important matter of whether or not they  
19 would get transcripts. And let me backtrack here.  
20 Of course, there was also the question earlier about  
21 the diaries and how we would use the diaries and that  
22 was another issue.

1 Q And what diaries are you referring to?

2 A Steiner's diary and Altman's diary.

3 Q Were there other questions of substance  
4 other than the diaries and transcripts that you had  
5 occasion to talk about?

6 A The diary, an issue of substance? I don't  
7 know what you mean by that, but the diary issue was  
8 that they had reached an agreement with the Hill,  
9 with the Senate committee and the House, that the  
10 transcript wouldn't be used, that Altman's transcript  
11 in particular wouldn't be used outside a very narrow,  
12 restricted manner. And, you know, they wanted us to  
13 be aware of that.

14 And then there was also the issue of  
15 whether Steiner's diary would be appended and made a  
16 part of his transcript. Those were the issues  
17 concerning the diaries, but in the end the decision  
18 was a decision for the Office of Inspector General,  
19 and we questioned Altman and Steiner both about their  
20 diaries.

21 Q My question -- I'm sorry if I wasn't  
22 clear -- was to try to understand what other issues

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1 you spoke about with Mr. Schmalzbach and others who  
2 were working to help prepare the Secretary for  
3 testimony, whatever, other than the transcripts and  
4 the diaries, other issues about the investigation  
5 that might have been discussed -- that were  
6 discussed?

7 A I'm sure there were other issues. If you  
8 are asking me, do I remember what other issues there  
9 were. I do not at this time have an independent  
10 recollection aside from the few things that I've  
11 mentioned to you.

12 Q The transcripts and the diaries?

13 A The transcripts, the diaries, whether I  
14 would get access to the OGC documents -- or the  
15 documents that had been collected by OGC because they  
16 were from various different offices, you know, when  
17 we would get the go-ahead from Fiske to proceed,  
18 these were the big issues.

19 Q Did anyone else involved in the  
20 investigation discuss these issues with  
21 Mr. Schmalzbach, Mr. McHale, Mr. McNamara?

22 A Well, I don't know the answer to that



1 question. I don't know the answer to that question.

2 Q I can ask you specifically, was Mr. Cottos  
3 involved in the conversations with those individuals?

4 A Well, he had a conversation that I have one  
5 E-mail with Steve McHale about Ludwig -- Eugene  
6 Ludwig, L-u-d-w-i-g -- but that was way later. No,  
7 his role was to run the investigation. My role was  
8 liaison. I don't know whether Bob Cesca had  
9 conversations with any of them.

10 Q How about anyone from the Resolution Trust  
11 Corporation Inspector General's office?

12 A How about what?

13 Q Did they have discussions with  
14 Mr. Schmalzbach, McHale and McNamara about these  
15 issues?

16 A Pat Black may have had one or two  
17 discussions with them. I don't know.

18 Q Did Ms. Black ever tell you that she had  
19 conversations with Mr. Schmalzbach, McHale and  
20 McNamara with regard to these issues?

21 A I don't know what issues we're talking  
22 about now.

1 Q The ones you've identified, the  
2 transcripts, the diaries, document production.

3 A I don't recall her telling me that, no. I  
4 don't recall her not telling me that. I know that  
5 they knew Pat Black and may have dealt with her on  
6 other issues as well as these. I don't know. I  
7 wasn't keeping track of all the conversations that  
8 people were having with one another. I have a hard  
9 enough time keeping track of my own conversations.

10 Q You were working pretty close with  
11 Ms. Black during the time; is that right?

12 A Well, working closely, she was very much  
13 involved with the Rose Law Firm investigation, which  
14 took most of her time, so she really didn't have much  
15 time for this. Periodically she would raise an issue  
16 of one sort or another, but she didn't have much time  
17 for this. She was pretty much dealing with other  
18 matters of interest to the RTC IG's office.

19 Q Was she your liaison over at the RTC?

20 A Yes, but I spoke to other people as well  
21 when the occasion called for it.

22 Q Did Mr. Cesca have any conversations with

1 Mr. Schmalzbach with regard to transcripts, do you  
2 know?

3 A With regard to transcripts, you mean giving  
4 the OGC the transcripts?

5 Q Correct.

6 A I don't recall whether or not he had any  
7 conversations with them about that.

8 Q Have you ever learned that he did? Other  
9 than your recollection, have you been told or have  
10 you learned?

11 A I don't know whether or not he did.

12 Q Did you have any conversations with  
13 Mr. Knight about providing transcripts to the general  
14 counsel's office?

15 A Absolutely not. I didn't know who he was  
16 until our report was issued.

17 Q But you had had conversations with him;  
18 right?

19 A No, never. First time I spoke to the man  
20 was on the date the Secretary had a press conference  
21 releasing the OGE report and the IG's report which I  
22 think was that Sunday -- 30 days has September --

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1 what's the last -- whenever the last -- June 30th,  
2 July 31st -- I think it was July 31st. That would  
3 have been the first time that I spoke to him.

4 Q Just for precision, have you ever been  
5 involved in a conversation that maybe you weren't  
6 speaking but that he was a participant in, a meeting?

7 A No. Well, I do not recall ever meeting  
8 with him, ever even seeing him. It is possible that  
9 my recollection is faulty. There were regular  
10 monthly staff meetings that the general counsel had.  
11 He may have attended one of those meetings. I don't  
12 recall that. That would have been the only other  
13 time that I would have had an opportunity to meet him  
14 in any sort of setting.

15 Q Okay. When did Mr. Schmalzbach, people who  
16 were working with him at this time, what was the  
17 first time that they requested getting access to IG  
18 transcripts?

19 A Very early on they wanted access to IG  
20 transcripts. I think there's another memo sometime  
21 in June that discusses that.

22 Q Did you have any trouble with providing

1 them transcripts?

2 A This wasn't my decision, and this is a good  
3 point to make the following -- a good place to make  
4 the following point: I give advice and legal  
5 counsel. I don't make policy decisions on matters  
6 involving the release of transcripts either to the  
7 general counsel's office or to the White House, and  
8 it was not my decision when the transcripts would go  
9 down to the general counsel's office. That was a  
10 decision that Jim Cottos and Bob Cesca made and there  
11 was an E-mail that I did to them on July 18th  
12 notifying them that the transcripts were going down  
13 to Ken Schmalzbach.

14 Q Were you consulted before that occurred?

15 A Was I consulted?

16 Q Yeah. Was your opinion --

17 A No, I was the one who moved the  
18 transcripts. After I consulted them. I asked them  
19 whether it was okay to do it and they said yes.

20 Q So you got the request from Mr. Schmalzbach  
21 and then --

22 A I don't know who made the request.

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1 Q Someone from that office --

2 A Right.

3 Q -- who was working on it?

4 A Right. And I might add that there was no  
5 objection raised.

6 Q Do you recall what date that occurred? I  
7 can show you something.

8 A Yes, show me something. I'll never --

9 Q Do you recall independently or no?

10 A I think it was July 18th.

11 Q I'd like to show you a document Bates  
12 stamped 366. It's a copy of an E-mail, one page, 18  
13 July, 1994 from Francine Kerner to Jim Cottos and  
14 it's delivery of transcripts. Is this the E-mail  
15 that you were talking about earlier?

16 A Yes.

17 Q This E-mail describes that you permitted  
18 the Office of General Counsel for Administration to  
19 copy and to retain for their use copies of the  
20 transcripts that were available at that time; is that  
21 right?

22 A That's correct.

1 Q Were all the transcripts that were  
2 available that had been produced in your possession  
3 July 18th?

4 A Excuse me, I'm sorry?

5 Q Did you have -- all the transcripts that  
6 had been produced, were they in your possession on  
7 July 18th?

8 A I believe they were. They may not all have  
9 been. I mean, I was getting them, you know, as they  
10 were produced.

11 Q They were delivered to you?

12 A Yes.

13 Q As they were produced --

14 A They weren't delivered directly to me.  
15 They were delivered to Jim Cottos first and then he  
16 would send me over a copy. I didn't deal with the  
17 transcription service, he did.

18 Q Okay. Prior to July 18th, had you provided  
19 any copies of transcripts to Mr. Schmalzbach or  
20 anyone else in his office?

21 A Well, I think he has a recollection that I  
22 provided him a couple of copies.

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1 Q Why do you think he has a recollection of  
2 that?

3 A Because of a question I was asked by  
4 another investigative body. But I've never refreshed  
5 my recollection on that score, and I don't know  
6 whether or not I did that. I don't recall doing  
7 that. As the question was asked to me, the  
8 impression I got was that he recalls my giving him a  
9 few transcripts and then telling him I jumped the gun  
10 and hastily pulling them back. I don't have a  
11 recollection of that, but I believe he does.

12 Q Do you have any idea why you might have  
13 said that you jumped the gun if you'd given them to  
14 him earlier?

15 A Because I hadn't gotten permission from the  
16 correct people.

17 Q So this discussion that's referenced in  
18 July 18th E-mail, do you recall specifically how you  
19 presented the proposition of providing  
20 Mr. Schmalzbach with transcripts?

21 A Excuse me? I don't understand your  
22 question.



1 Q I'm just trying to get to the specifics of  
2 the discussion that you had with Mr. Cesca and I  
3 believe you said Mr. Cottos -- is that right -- as to  
4 their permission to hand over the transcripts.

5 A I don't remember anything other than I  
6 asked them to and they said yes and then he got the  
7 transcripts.

8 Q Did he tell you why he wanted the  
9 transcripts on the 18th?

10 A It was always clear from the beginning that  
11 they wanted transcripts as early as possible.  
12 There's another E-mail about this as well. When he  
13 and Ken Schmalzbach and Bob McNamara came to see me  
14 and asked specifically when they would get access to  
15 the transcripts, and I E-mailed both Jim Cottos and  
16 Bob Cesca on that one as well, and that was always  
17 the position of these attorneys who had been  
18 assisting the Secretary, that they wanted an advance  
19 copy of the transcripts, and it was always clear from  
20 the beginning that there would come a point in time  
21 at which they would get those transcripts.

22 Q Okay. And what was the triggering event

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1 that --

2 A I think -- looking at this E-mail, I think  
3 the triggering event was that the vast majority, if  
4 not all of the transcripts had been completed, and  
5 that we were now proceeding to get witness  
6 verifications. So witnesses were getting copies of  
7 their own transcripts, and once they were getting  
8 copies of their own transcripts, there was no reason  
9 not to pass on copies to the general counsel's  
10 office.

11 Q And what was the reasoning behind that?

12 A Well, once you are giving a witness a copy  
13 to use, then there was no reason not to give the  
14 general counsel's office. And when I say the general  
15 counsel's office, again, I'm talking about these  
16 three attorneys, Bob McNamara, Ken Schmalzbach and  
17 Steve McHale who were honcho-ing this for the  
18 Secretary. There was no reason to give them copies  
19 as well so they could begin the review process of  
20 what was in the transcripts.

21 Q I'm just trying to understand the reason  
22 behind, once given the witnesses transcripts, why

1 that --

2 A Witnesses were free to use their  
3 transcripts. This was a management review. It's not  
4 a criminal -- it was not a criminal review, and  
5 witnesses were free to share their transcripts with  
6 whomever they wanted. Once you are in a posture  
7 where you are giving people transcripts and they are  
8 free to share their transcripts with whomever they  
9 wanted, it made no sense not to give others who had  
10 an official need for access to that information,  
11 access to the same information.

12 The transcripts were now being verified by  
13 the witnesses and so that meant they were being sworn  
14 to, acknowledged -- they'd already been sworn to, but  
15 they'd been acknowledged by the witnesses as being  
16 accurate and correct, and at that point there was no  
17 reason not to give it to the general counsel's  
18 office, these three attorneys Schmalzbach, McHale and  
19 McNamara.

20 Q Did Mr. Cesca or Cottos, when you asked  
21 them if it was okay to give the transcripts, give a  
22 reason why at that point they thought it was okay?

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1 A I don't recall any conversation with them  
2 about this matter other than clearly they both had  
3 responded affirmatively and I never got any response  
4 to this E-mail that said no, no, that's not okay.  
5 That's not what we mean.

6 Q Did you have any consultations with anyone  
7 from the RTC IG's office about providing transcripts  
8 to Mr. Schmalzbach?

9 A I don't recall.

10 Q Do you recall that you didn't or --

11 A I don't recall one way or the other.

12 Q Did you have discussions with people at the  
13 RTC IG in general with regard to the disposition of  
14 the transcripts during the course of their  
15 investigation?

16 A I don't know what that -- that's an open  
17 ended question, and --

18 Q Well, I can try to make it less open  
19 ended. It's not intended to be.

20 A Okay.

21 Q I'm trying to start from a general  
22 perspective and then we can get more specific. Did

1 you have any conversations during the course of the  
2 investigation or during the preparation time before  
3 the investigation with people at RTC IG with regard  
4 to how the transcripts were going to be handled and  
5 who they were going to be shared with, if they were  
6 going to be shared with anybody, prior to the end of  
7 the investigation?

8 A Well, let me backtrack here. There was a  
9 discussion on July 5th, which I've alluded to before,  
10 in which Jane Sherburne, Sheila Cheston, Pat Black  
11 and I talked about the fact that the IG's office  
12 would be making transcripts of witness statements and  
13 that we agreed, we told them that's the way we were  
14 operating. And I believe at that point the White  
15 House said that they would like a copy of the  
16 transcripts. There was no resolution, though, at  
17 that time about whether or not they would get copies  
18 of the transcripts. That decision was put in  
19 abeyance.

20 Q Were any opinions expressed at the meeting  
21 by anyone at RTC whether they thought the White House  
22 should get the transcripts or not?

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1 A I think it's safe to say that Pat Black  
2 opposed the idea. The White House argued for it  
3 strenuously. And at that point I was more -- most  
4 interested in sealing the deal, so to speak, of  
5 getting access to the papers and the witnesses.

6 Q With the White House; is that right?

7 A That's right. So it seemed to me the  
8 judicious thing to do, to put in abeyance an issue  
9 that couldn't be resolved at that point, which is  
10 whether or not the White House would get access to  
11 the transcripts. And so I was kind of the  
12 conciliatory one, let's wait, let's see, we'll talk  
13 about that later. Let's get the show on the road  
14 first.

15 Q You wanted to make sure the document flow  
16 started and you got what you needed to conduct your  
17 investigation?

18 A That's exactly right.

19 Q Was it specifically agreed to that the  
20 issue was put in abeyance or -- well, that's the  
21 first question.

22 A Well, you know, you had four women at that

1 meeting. There could be four different perceptions  
2 of what we agreed to. My perception of what we  
3 agreed to was that we agreed to nothing except to  
4 possibly revisit the issue at another point in time.  
5 I can't speak for what other people's perceptions  
6 were.

7 Q Have you ever been told what other  
8 people-at-the-meeting's perceptions were, what the  
9 status of the request was?

10 A It's quite possible that Pat Black thought  
11 there was no agreement to give it to them at any  
12 point in time. In fact, she may well think that  
13 there was a positive agreement not to give it to  
14 them. It's quite conceivable that Jane Sherburne  
15 believed that there was an agreement to give it to  
16 them at a certain point in time. I have not  
17 discussed that with either one of them.

18 Q Is it fair to say you were functioning  
19 almost in a liaison role with both groups or --

20 A I was trying --

21 Q -- what was the relationship?

22 A Well, collegial, I hope. My goal was to

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1 get the investigation moving. That was my goal. And  
2 at that point the meeting was being held in my  
3 office. You know, I didn't want anything that was  
4 going to be a deal-breaker and to have to say that  
5 from my perspective that the issue had been  
6 foreclosed once and for all. That was not going to  
7 fly, I believed, from the White House's perspective.  
8 And Pat Black was very clear that, you know, that was  
9 not something that she wanted to agree to. That's  
10 where things stood at the end of the meeting.

11 Q Did you have any reason to believe that if  
12 you told the White House at that meeting that they  
13 couldn't get access to transcripts that you'd have a  
14 more difficult time getting documents or access to  
15 witnesses?

16 A It stands to reason that it would not  
17 have -- it was not the cooperative approach that I  
18 was seeking to achieve at that point in time. I  
19 don't know. I think that ultimately the White House  
20 wanted to cooperate and, in fact, they were very,  
21 very cooperative. So I see no reason to believe that  
22 if we had said definitely at that point that they



1 wouldn't get it, that they wouldn't have cooperated.

2       Nonetheless, there was really no reason at  
3 that point in time to make a decision one way or the  
4 other. Remember, these transcripts were supposed to  
5 become public. That was the understanding that I had  
6 going into this thing. Everybody knew the  
7 transcripts were going to be made public. The White  
8 House wanted the transcripts public and the working  
9 assumption was they were going to be made public in  
10 their entirety. Therefore, to reach an absolute  
11 conclusion that the White House would or would not  
12 get the transcripts in advance of their being made  
13 public, there was just no need to come to a final  
14 conclusion on that, from my perspective, at that  
15 point in time.

16       Q   Why was it an issue?

17       A   Why was what an issue?

18       Q   Handing over the transcripts to the White  
19 House before they were made public.

20       A   Why was it an issue?

21       Q   Yeah.

22       A   Well, certainly there was a question of the

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1 orderly flow. Were we going to give them transcripts  
2 as we got them. Were we going to wait for the Senate  
3 depositions to be finished. I mean, we were  
4 conducting our own investigation and we wanted to  
5 collect as much information as possible, so we  
6 weren't going to be turning over transcripts to  
7 anyone on a daily basis as we ourselves received them  
8 in the office.

9       At the end, though, as we issued a draft  
10 report and then came to issuing our final report,  
11 that might put things in a different posture. I  
12 wasn't clairvoyant. This was July 5th. We had to  
13 get through the whole month of July.

14       Q   I was just trying to find out what was the  
15 cause of the hesitation. Was it because the  
16 investigation was ongoing? Were there concerns  
17 expressed by confidential information in the  
18 transcripts?

19       A   No, I think that Pat Black wanted the IGs  
20 to conduct their own investigation at that point.

21       Q   Okay. And --

22       A   That's what I recall her concern being.

1 Q And with regard to her wanting the IGs to  
2 conduct their own investigation --

3 A Right.

4 Q -- would handing over the transcripts  
5 impede that or change the status of it being their  
6 own investigation? What's your understanding of  
7 that?

8 A She made her statement. The White House  
9 wanted access to the transcripts, the matter was put  
10 on hold. That was my impression. That is what I  
11 believe we agreed to. We agreed that we wouldn't  
12 resolve the issue until at a later point in time.

13 Q Was the issue ever resolved later --

14 A Well, obviously the --

15 Q -- with those two people?

16 A No.

17 Q Who was it resolved with?

18 A Bob Cesca made a decision to give the  
19 transcripts to the White House on July 23rd, 1995.

20 Q So was Ms. Black consulted later on about  
21 whether she thought it was appropriate to release the  
22 transcripts to the White House?

1 A You know, she wasn't.

2 Q I mean --

3 A She wasn't. She was not.

4 Q Was there a specific reason why she wasn't  
5 asked or consulted?

6 A Was there a discussion saying should we  
7 consult Pat Black and the answer is no, no. She --  
8 no, there was no such discussion along those lines.

9 Q Okay. Why wasn't she consulted?

10 A No one from RTC was consulted.

11 Q But why?

12 A Well, I think you'd have to ask Bob why he  
13 didn't want to consult anyone -- well, I phrased that  
14 wrong. Not why he didn't want to, but why he  
15 didn't.

16 At a subsequent point in time he has said  
17 to me and to others at large meetings that he made a  
18 mistake and he should have consulted RTC, but as I  
19 recall our conversation there was no discussion about  
20 it one way or the other.

21 Q You were counsel to him as acting Inspector  
22 General at the time, is that right?

1 A That's right.  
2 Q Did he ever seek your counsel on that  
3 issue?  
4 A On whether to consult RTC?  
5 Q Correct.  
6 A No.  
7 Q Did you ever --  
8 A Not that I recall.  
9 Q Did you ever offer an opinion on it to him?  
10 A No, not that I recall.  
11 MR. O'CALLAGHAN: Why don't we go off the  
12 record a second.  
13 (Recess.)  
14 MR. O'CALLAGHAN: Back on the record.  
15 THE WITNESS: I'd like to go back over a  
16 few points. One concerning the transcripts. We've  
17 talked about two meetings, one July 5th with the  
18 White House and then the date the transcripts went  
19 over to the White House on the July 23rd, 1995, which  
20 wasn't a meeting, that was just an agreement that was  
21 reached after conversations which I'm sure we'll get  
22 into.

1 MR. MC DOUGAL: '95 or '94?  
2 THE WITNESS: '94, excuse me. But in terms  
3 of the consulting RTC, I want to make it clear that  
4 these were different points in time. By July 23rd,  
5 we had done all of the witness interviews with the  
6 exception of Eugene Ludwig. And on July 23rd, we  
7 didn't know that Eugene Ludwig would be someone that  
8 OGE wanted interviewed for another contact that had  
9 nothing to do with the substance of what we had  
10 started out to examine.  
11 On July 23rd, we had already issued a draft  
12 report to the Secretary and to OGE setting forth our  
13 chronology and including copies of the verified  
14 transcripts. On July 23rd, we were anticipating  
15 releasing our report and our transcripts within a  
16 week, and that the transcripts were going to be made  
17 public in their entirety; there had been no  
18 discussion about any redaction. And to this day, I  
19 do not believe there was any confidential information  
20 that could not have been released in those  
21 transcripts and should not have been released.  
22 It's always been my position that those

1 transcripts in their entirety should have been made  
2 public. And certainly on July 23rd, it was my  
3 understanding that they were to be made public, and  
4 no one had given me any reason to believe anything  
5 contrary to that.

6 So on July 23rd, we were in a very  
7 different posture than we were on July 5th when we  
8 were beginning an independent IG inquiry, when we  
9 were concerned about the premature release of  
10 information, and when we had yet to interview anyone  
11 or understand what had occurred back the following  
12 fall. So those are some of the considerations.

13 Also, as I'm sure we'll get into, Secretary  
14 Bentsen said that he would like the transcripts to go  
15 to the White House if at all possible. Secretary  
16 Bentsen was the senior administration official for  
17 whom we had conducted the review, this management  
18 review, not a criminal investigation, and the  
19 Inspector General did report to and serve under the  
20 general supervision of the Secretary.

21 BY MR. O'CALLAGHAN:

22 Q Okay.

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1 A So these were all reasons. It wasn't  
2 simply -- I didn't want to leave the impression that,  
3 you know, we just reached a different conclusion on  
4 July 23rd without being in a different posture at  
5 that time. We were in a very different posture from  
6 July 5th.

7 Q Okay. I'd like to ask about your role in  
8 the IG's office, and also with regard to the general  
9 counsel's office during this time period, during the  
10 course of the investigation.

11 A Right.

12 Q Did there come a time when anyone expressed  
13 concerns about your role in participating in the  
14 investigation?

15 A Well, I was actually the first one who was  
16 concerned about the reporting chain. Now, a little  
17 IG history is necessary here. I started working in  
18 the IG community, as I told you, in 1979, and had  
19 worked there until 1989 when I had moved to the  
20 general counsel's office at Commerce.

21 During that period of time, there were two  
22 ways, and to this day, there are two ways that IGs



1 get their legal advice and services. Under one  
2 system, the IG counsel reports solely to the  
3 Inspector General. Under another system, which was  
4 in effect at Treasury, the counsel reports to the  
5 Inspector General and is under the supervision of the  
6 general counsel.

7 I have worked under both systems. I had  
8 worked in Commerce where the system was one in which  
9 the counsel reported directly to the IG. At  
10 Treasury, the position was in the general counsel's  
11 office, on a practical daily basis my reporting, as I  
12 told you, was to the Inspector General.

13 There was no MOU. Many agencies which have  
14 counsel in the general counsel's office serving the  
15 IG have a memorandum of understanding in which there  
16 are agreements that when you have certain sensitive  
17 investigations, the counsel is walled off and those  
18 agreements also include a provision for concurrence  
19 with respect to performance appraisals, matters of  
20 that sort. We didn't have such an MOU at Treasury.

21 So recognizing that, in this particular  
22 instance, we needed something that walled me off from

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1 the general counsel's office, I raised the issue with  
2 Dennis Foreman sometime in winter, late winter or  
3 early spring, and he immediately concurred that there  
4 was a need for special agreement.

5 Q Was this before you knew about the  
6 investigation?

7 A No, this was -- well, I always believed  
8 that there needed to be an MOU. And I had discussed  
9 it with Don Kirkendall and he had tried to get an MOU  
10 before I even got there, and they couldn't agree to  
11 one that satisfied him. But that was in a previous  
12 administration. I had only been there since  
13 September of '92. Kirkendall left in January of  
14 '93. Bob Cesca took over at that point. He was a  
15 career civil servant, he was not going to be  
16 negotiating an MOU with the general counsel's  
17 office. So in effect, any push on my part for an MOU  
18 had to wait for a new IG to come on board.

19 Q Could you explain to me why, being a career  
20 civil servant, Mr. Cesca would not be as inclined to  
21 negotiate an MOU?

22 A He felt that that was something which

1 should be done by the Presidential appointee and that  
2 he didn't want to agree to any provisions which a  
3 Presidential appointee might then disagree with for  
4 one reason or another. He also wasn't in a  
5 position -- I mean he's an acting IG, career civil  
6 servant, and to deal with the general counsel, who is  
7 a Presidential appointee, you know protocol normally  
8 for a matter of this sort that was discretionary  
9 would be one Presidential appointee dealing with  
10 another.

11 In any event, there was no MOU. That was  
12 the state of affairs that we had in late winter,  
13 early spring. And I told Dennis Foreman that we  
14 needed to have some agreement that would insulate me  
15 from the general counsel's office, and that it had to  
16 be at least as good as the MOUs that were then in  
17 existence at EPA, the Defense Department, HHS, to  
18 name a few agencies that had such an agreement. And  
19 I was familiar with those agreements, very familiar  
20 with them.

21 And so before the June 27th agreement, I  
22 crafted something, and I know there's a note in the

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1 file that Jim Cottos wrote showing that in a staff  
2 meeting on June 22nd, he raised concern about my  
3 reporting chain. And the note also shows that I had  
4 already -- that I stated I had already raised it with  
5 Dennis Foreman and done a memo on that.

6 The memo originally called for Jean  
7 Hanson's check mark at the bottom of the page. That  
8 was the original copy that went up to the general  
9 counsel's office. We didn't get any response. She  
10 was busy with other things.

11 And on June 27th --

12 Q When was the original memo sent?

13 A I don't know when it was sent. It was  
14 clearly sent before June 22nd. I have no copy of the  
15 earlier version that required her to initial at the  
16 bottom or check off at the bottom.

17 Q Did you ever hear why it was never  
18 returned?

19 A No.

20 Q Why you never got a response on it?

21 A No, there was no discussion about it, other  
22 than it didn't come back.

1 Q Did anyone inquire into the office or ever  
2 ask --

3 A I asked Dennis where it was, you know, he  
4 said he'd check on it, but there was never a  
5 response. So finally on June 27th, we were on the  
6 verge of beginning. I said to Bob, Bob, we're just  
7 going to send another memo, if that's okay with you,  
8 that you sign in which you say this is the way it's  
9 going to be. Please get back to me if you have any  
10 questions, and so that's when the June 27th memo was  
11 signed.

12 Q And you drafted the June 27th memo?

13 A Yes. And it's been adhered to. Bob Cesca  
14 has concurred in both my performance appraisals for  
15 the periods in question.

16 Q You said that -- earlier you said that  
17 Mr. Cesca was hesitant to negotiate a new MOU with  
18 the Presidential appointed general counsel; is that  
19 right?

20 A He didn't want to do it.

21 Q Did he ever express a specific reason to  
22 you why he didn't want to do it?

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1 A That it should wait for the new  
2 Presidential appointee.

3 Q Anything else more specific?

4 A No.

5 Q Any concerns that he expressed?

6 A Not that I'm aware of, not that I recall.

7 Q Did he ask your advice on that?

8 A I wanted an MOU to be negotiated. That's  
9 why we were discussing it. His response was that he  
10 didn't want to negotiate one. He wanted to leave  
11 that for the new IG.

12 Q Did you recommend that he do it or --

13 A Well, I just said I wanted it.

14 Q You said you approached him about it?

15 A Well, I wanted him to do it, yes. Yes.

16 Q Other than wanting to wait for the  
17 Presidentially appointed IG to do it, did he give a  
18 specific reason why he didn't feel comfortable in  
19 doing it?

20 A No.

21 Q Did he have any trouble with the  
22 memorandum, the June 27th memorandum?

1 A Trouble, absolutely not. He supported it  
2 completely.

3 Q Did he have any discussions with Ms. Hanson  
4 with regard to the June 27th memo?

5 A I don't know that. I don't --

6 Q Have you ever heard that?

7 A No, I've never heard it, and it's possible  
8 that he did. I don't know whether he did or he  
9 didn't.

10 Q Did you have any discussion with Ms. Hanson  
11 with regard to the June 27th memo?

12 A No, absolutely not.

13 Q How about Mr. Foreman?

14 A I did with him, yes, absolutely. I told  
15 him it was coming -- well, number one, I told him  
16 there was a problem and that we needed an agreement.  
17 Number two, he told me he agreed with me that we  
18 needed an agreement. Number three, I sent him a  
19 draft, and I think he sent it down to Ken Schmalzbach  
20 for Schmalzbach to look at it.

21 Schmalzbach's initial comment was well,  
22 we're almost at the end of the performance period and

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1 now they're adding a new element to your performance  
2 plan. You know, that's really not cricket to put on  
3 an employee at the end of the performance plan a new  
4 performance element. That's the element concerning  
5 my provision of legal advice and services with  
6 respect to Whitewater.

7 I said I don't care. I'm agreeing to it so  
8 it doesn't matter that it's coming at the end of the  
9 performance period. He said okay, if you're agreeing  
10 to it. And so he conveyed his agreement to  
11 Mr. Foreman, I assume. And Mr. Foreman and I  
12 discussed other minor wording where he may have  
13 edited one or two lines, nothing of substance. So  
14 the agreement was essentially as I wrote it.

15 Q Did Mr. Cesca have any input into the text  
16 of the document?

17 A Yes, he did. I think he made some editing  
18 changes also.

19 Q Did you ever hear that Ms. Hanson had a  
20 specific reaction to this memo?

21 A Absolutely not.

22 Q Do you know if she ever saw it?



1 A No, I don't know that she ever saw it. I  
2 believe that she was given a copy of it. I have no  
3 reason to think she didn't get a copy of it.

4 Q And what makes you think she got a copy?

5 A Well, it was addressed to her, and it  
6 involved an important matter. Dennis Foreman was  
7 aware of it, her deputy, keeping her apprised of the  
8 issue as well. So I think he is shown as a cc at the  
9 bottom of the document. So I have no reason to think  
10 she wasn't aware of it.

11 And certainly during this period of time, I  
12 was having absolutely no conversations with her. You  
13 know, once this document was signed and we began our  
14 investigation, I had no conversations with Dennis  
15 Foreman. I had no regular meetings with him about  
16 any matter, not just Whitewater.

17 Q Did you ever seek to get a reaction whether  
18 there was concurrence in this?

19 A I knew there was concurrence because  
20 nothing came back that said there wasn't. When you  
21 get a memo back like this, if you're not going to  
22 concur in it, it's up to you to go back and say we're

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1 not concurring. And, in fact, both my performance  
2 appraisals for the periods in question have been done  
3 exactly as the memorandum stated they would be done.

4 Q I guess the question is, did you endeavor  
5 to find out if the person who would have had to  
6 concur on this memo ever actually received it? Did  
7 you ask Mr. Foreman did Ms. Hanson receive it?

8 A I don't recall asking him that question.  
9 What I'm finding it hard -- let me put it another  
10 way.

11 There was no doubt in my mind that this was  
12 the agreement under which we were operating. There  
13 was not a shred of doubt in my mind that my  
14 performance appraisal was going to have to be  
15 concurred in by the IG and that there was going to be  
16 a separate element on which the IG solely and  
17 exclusively rated my performance. There was no  
18 question in my mind about that as I went into this  
19 thing, nor would Bob Cesca have permitted anything to  
20 have occurred that was not in -- that was not in  
21 keeping with this.

22 Q Okay. And as you wrote this, what was your

1 understanding as to what was the purpose of the memo,  
2 what were you trying to accomplish?

3 A To ensure that, number one, I did not  
4 report to the general counsel's office with regard to  
5 any of the advice and legal services that I provided  
6 in connection with the IG's investigation.

7 Q If I can just stop you before you continue,  
8 could you give me what your definition of "report"  
9 is. You said so you wouldn't have to report --

10 A That I would not be making -- reports that  
11 no one would call me in and say --

12 MR. PORTNOY: Could we show the witness the  
13 document where we ask her to comment on what it  
14 means?

15 MR. O'CALLAGHAN: Sure, sure, Jim. I  
16 wasn't trying to --

17 MR. PORTNOY: No, I'm not suggesting --

18 BY MR. O'CALLAGHAN:

19 Q Let me show you document 025256. I know  
20 the witness is familiar with it. She wrote it.

21 Let me know when you've had a chance to  
22 review it.

1 A What is your question again? What was I  
2 trying to accomplish?

3 Q I wasn't referring to the document  
4 specifically as to what your understanding was with  
5 what the purpose was, and you said to --

6 A Make certain that I wouldn't be reporting.  
7 Okay. When you report to someone, they have a right  
8 to call you into their office and say Francine, where  
9 do things stand today, how are we going today, and  
10 you have an obligation to answer them. You can't say  
11 to them, well, I'm not prepared to tell you that  
12 today Mr. Foreman. I'm not prepared to tell you that  
13 today, Ms. Hanson.

14 Now, in my subsequent conversations with  
15 Ken Schmalzbach, Stephen McHale and Bob McNamara, I  
16 was not reporting to the general counsel's office, I  
17 was not reporting to them. And so if they asked me a  
18 question that I was not at liberty to discuss the  
19 answer to, I could say to them I am not at liberty to  
20 discuss that, or I do not intend that discuss that,  
21 and that would be the end of it.

22 Q So your understanding was that report --

1 you weren't reporting to them because you weren't  
2 compelled to give them responses to questions that  
3 they posed to you?

4 A That's right. Nor were they -- let me give  
5 a further explanation. They were not giving me any  
6 direction. They were not calling me into the office  
7 to say we'd like you to see to it that the IG  
8 interviews this witness. We'd like to see to it that  
9 the IG asked this witness a particular question.  
10 We'd like to see to it that the IG's report says the  
11 following. They were not -- Dennis Foreman and Jean  
12 Hanson were not going to be able to do that. Nor was  
13 I going to be talking to them about it voluntarily.

14 Bob Cesca gave me a direct instruction that  
15 he didn't want me talking to either Dennis Foreman or  
16 Jean Hanson during this period of time. And I did  
17 not talk to them during that period of time. The  
18 period of time being the time during which the  
19 Inspector General was conducting its inquiry.

20 Q And why weren't you -- why were you  
21 instructed want to talk to Jean Hanson and Dennis  
22 Foreman?

1 A To create a wall between me and Dennis  
2 Foreman and Jean Hanson who were both witnesses.  
3 Jean Foreman was --

4 Q I'm sorry, Jean Hanson.

5 A Jean Hanson, excuse me, was a focus of our  
6 inquiry. Dennis Foreman was going to be a witness.  
7 So that was one thing I was seeking to ensure. A  
8 second thing I was seeking to ensure was how my  
9 performance would be rated. I was giving advice and  
10 legal services to the Inspector General's office and  
11 I didn't want that advice and legal services to be  
12 subject to review by anyone in the general counsel's  
13 office.

14 Q Anyone at all?

15 A Anyone at all. That's exactly right.  
16 Anyone at all.

17 Q Why is that?

18 A Because that would wall me off. I wouldn't  
19 have to please anyone in the general counsel's  
20 office. And if I displeased someone in the general  
21 counsel's office, that would not be a problem because  
22 they were not permitted to rate me with regard to any

1 of the legal advice and services I gave to the IG.

2 Furthermore, having carved out this  
3 separate element on which I was not to be rated by  
4 them, there was a further provision in my own mind,  
5 well, my overall rating for how I've performed this  
6 year, I want the Inspector General to have to concur  
7 in my overall rating of how I performed this year.

8 And so by the time I was finished with this  
9 agreement, this was lock, stock and barrel like the  
10 agreements I was aware of at HHS, EPA and the Defense  
11 Department. Giving me full independence with regard  
12 to this matter and ensuring that any spill over from  
13 this matter would not affect my performance ratings  
14 for either of the years in question.

15 Q And there's also -- this was also addressed  
16 to concerns with regard to you providing information  
17 to Ms. Hanson and Mr. Foreman; is that right, about  
18 the investigation?

19 A Well, from the IG's perspective, yes, he  
20 didn't want me providing such information nor did I.

21 Q Now, with just to those specific  
22 individuals or to the entire Office of the General

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1 Counsel?

2 A No, to those two specific individuals. And  
3 as I've explained to you before, Bob Cesca was well  
4 aware that I continued to have discussions with Ken  
5 Schmalzbach, Steve McHale and Bob McNamara. Those  
6 were attorneys who, for these purposes, were  
7 representing the Secretary. And they weren't  
8 reporting to Jean Hanson and Dennis Foreman on these  
9 matters either.

10 Q Did they have a similar memo of  
11 understanding?

12 A I didn't ask them whether they had such a  
13 memo of understanding, but they were representing the  
14 Secretary. The Secretary could choose to have anyone  
15 represent him that he chose to have represent him.  
16 He turned to these three people. They happened to be  
17 in the general counsel's office.

18 Q But do you know specifically whether they  
19 had an agreement?

20 A No, I don't know.

21 Q Okay. And did you ever ask?

22 A No, I never asked.



1 Q Did Mr. Cesca ever ask?

2 A No, I don't know that Mr. Cesca ever asked.

3 You know, the question implies that somehow  
4 information would travel through these people back to  
5 Jean Hanson and Dennis Foreman. I just want to make  
6 it clear that I was not giving anyone in the  
7 department outside the IG's office status reports on  
8 the substance of what people said.

9 They got the transcripts when Bob Cesca and  
10 Jim Cottos approved of them getting the transcripts,  
11 and that's when they got the substantive information  
12 about what our investigation had uncovered. And it  
13 was only done under the condition that the  
14 transcripts would not be shared with any of the  
15 witnesses before the Senate Banking Committee had  
16 concluded its depositions.

17 Q And how was that agreement reached?

18 A Ken Schmalzbach told me the Secretary  
19 wasn't going to permit it to happen.

20 Q Did he say how the Secretary was going to  
21 prevent it from happening, or what his understanding  
22 was?

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1 A Well, how the Secretary was going to  
2 prevent it to happen.

3 Q You said the Secretary wasn't going to  
4 permit it to happen?

5 A He wasn't going to permit it to happen  
6 because Ken Schmalzbach was reporting to the  
7 Secretary or to the executive secretariat, Ed Knight,  
8 with regard to this. And he did not have permission  
9 to give the transcripts to any of the witnesses  
10 before the Senate depositions had been completed. So  
11 in that sense, I knew that he was walled off.

12 Q Was there any formal document that  
13 memorialized that that you're aware of?

14 A Well, certainly my E-mail memorialized it.

15 Q Your E-mail to Mr. Cottos relaying what you  
16 had been told?

17 A Right.

18 Q Any other documents that you're aware of?

19 A Well, it was reconfirmed when Steve McHale  
20 on July 23rd established the same condition for the  
21 transcripts going to the White House. That was the  
22 agreement that Bentsen had reached or Bentsen's

1 representatives had reached with the Senate Banking  
2 Committee, and that was being adhered to. To the  
3 best of my knowledge; I have no reason to believe  
4 that was not adhered to.

5 Q The basis of your understanding when you  
6 handed over the transcripts to Mr. Schmalzbach was  
7 the conversation you had with him where he  
8 represented to you that the Secretary wasn't going to  
9 permit that it would be shared with government  
10 witnesses; is that correct?

11 A I'm sorry, that was one of those times when  
12 I leaned back in my chair, and I --

13 MR. O'CALLAGHAN: Could you read it back.  
14 (The reporter read the record as requested.)

15 THE WITNESS: It wasn't going to be shared  
16 with or among the witnesses, that's correct. And  
17 that was a very unusual sort of an agreement. I have  
18 to say that, normally, when you're dealing in a  
19 management arena, the idea that witnesses cannot  
20 refresh their recollection by referring, by  
21 conversing with others or getting copies of their  
22 transcripts is basically unheard of.

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1 BY MR. O'CALLAGHAN:

2 Q So you thought at the time -- did you think  
3 at the time, otherwise, it would have been okay to  
4 share the transcripts with the other witnesses?

5 A I think that when a Senate hearing is about  
6 to take place, and a House hearing is about to take  
7 place that witnesses who are being called to testify  
8 have a right to confer with one another and to  
9 understand what others are going to be testifying to,  
10 yes, I do believe that.

11 Q Do you have an understanding as to why the  
12 Secretary wasn't going to permit the transcripts to  
13 be shared with other witnesses?

14 A He made that as a policy decision. These  
15 people work for him, and if they wanted to work for  
16 him and adhere to that decision that he had made,  
17 that was a matter between the Secretary and the  
18 witnesses.

19 By the way, I'd like to add, concerning the  
20 June 27th agreement, that a copy of that was sent to  
21 the Office of Government Ethics, and Jane Ley saw  
22 that and she approved of the arrangement.

1 Q Did you have a conversation with her?

2 A Absolutely I had a conversation with her  
3 concerning that.

4 Q Concerning her approval?

5 A Concerning her approval, yeah.

6 Q Did she communicate it to you or did she  
7 communicate it to Ms. Hanson, Mr. Cesca?

8 A Excuse me, I was not talking to Ms. Hanson,  
9 so let's not --

10 Q No, not you, Ms. Ley.

11 A I don't know to whom she communicated it.  
12 I sent her a copy of the June 27th agreement and she  
13 said that that met any concerns she had.

14 Q Had she expressed concerns earlier?

15 A Yes, we all expressed the same concern,  
16 that in some fashion, I had to be walled off from the  
17 general counsel's office. Now, you know the last  
18 line of that memo that went to Jean Hanson, can you  
19 show it to me again?

20 Q Sure.

21 A "Should you" -- the last line reads "should  
22 you have any questions concerning this arrangement,

1 please feel free to call me directly." And to the  
2 best of my knowledge, we never got any response from  
3 Ms. Hanson that would suggest she had any questions  
4 concerning the arrangement.

5 Q With regard to the investigation that was  
6 being conducted by Treasury IG and RTC IG, was there  
7 one person or group that was in charge of collecting  
8 the documents that were used in connection with the  
9 investigation you were conducting?

10 A Well, I think we all did our part with  
11 regard to that. I mean, McNamara walked in with the  
12 Altman diary. I got a copy of the Steiner diary from  
13 Steiner's attorney. I think that Jim Cottos took  
14 care of getting the RTC documents after I sent him an  
15 E-mail about the RTC documents. The general  
16 counsel's office delivered its set of documents to  
17 me, as did the White House.

18 I would say, to a large extent, I had a  
19 part in collecting a good number of the documents  
20 that we knew about that were necessary for use. And  
21 again, this is attorneys talking to attorneys. That  
22 was basically the way it operated.

1 Q So you got -- you received the Steiner  
2 diary, the general counsel office's documents?

3 A That's correct.

4 Q And the White House documents?

5 A That's right. They were ready. Jim's  
6 office could have gone over there to the White House  
7 and picked them up also, but I don't think he had  
8 anyone available. The documents were ready, so I  
9 walked over there myself and got them. Speed was of  
10 the essence. Whoever could do something and was  
11 available to do it would be the person who did it.

12 Q Just for point of reference, when did you  
13 get the White House documents and who did you get  
14 them from?

15 A Well, I would have gotten them from Jane  
16 Sherburne. When I got them, there's an E-mail on  
17 that. I don't recall independently when I got them.

18 Q And how about the Steiner diary?

19 A I don't recall when I got that, either.  
20 But it was in advance of his questioning so we can  
21 know for date certain that we had it at the time of  
22 his questioning.

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1 Q Was it well in advance?

2 A Sufficiently in advance so questions about  
3 his diary could be asked of him.

4 Q Did Jane Sherburne ever tell you she was  
5 doing a report for the OGE preparing a report for  
6 OGE?

7 A I was never clear what they were going to  
8 produce for OGE.

9 Q Okay.

10 A I, to this day, don't know what, if  
11 anything, they produced for OGE.

12 Q Did she tell you that they were conducting  
13 an investigation?

14 A Oh, that was clear.

15 Q Okay. And that was at the direction of  
16 who?

17 A I think it was the director of -- the chief  
18 of staff, excuse me. Of the President's chief of  
19 staff and it may even have been the President through  
20 his chief of staff directed it. I mean, it was about  
21 as high as you could go.

22 Q Do you know whether Ms. Sherburne was



1 involved with meetings with OGE during the course of  
2 the investigation?

3 A I feel certain that she had conversations  
4 with OGE. I'm tempted to say we were one big, happy  
5 family, but I wouldn't want to give the wrong  
6 impression. I mean, everybody had reason to talk to  
7 everybody else at one point or another. And I have  
8 no doubt that Jane Sherburne and Jane Ley talked  
9 about something at some point during this month's  
10 period.

11 Q But she never told you whether or not she  
12 was preparing a report for OGE?

13 A By the way, I just want to make sure that  
14 you understand that was a joke when I said that about  
15 being one big, happy family.

16 Q That's all right.

17 A Excuse me, did she ever say she was making  
18 a report?

19 Q Preparing a report to give to OGE.

20 A It was clear to me she wasn't going to do a  
21 transcript of witness statements. I think towards  
22 the end, it was Cutler's testimony that served as the

1 report that went to OGE.

2 I'm trying to refresh my recollection. As  
3 you asked me the question, to say that she was  
4 going -- it was clear, let me put it this way. It  
5 was clear they were going to seek an opinion from OGE  
6 on the basis of some facts that they conveyed to  
7 OGE. Whether it was going to be a written report, an  
8 oral report.

9 Q You are talking about the White House?

10 A White House conveying something to OGE to  
11 form a basis for OGE's opinion. And she may well  
12 have said at some point that they were doing a  
13 report, but the nature of the report, as I say to  
14 you, was never clear to me, and I don't know that  
15 they did an actual report in the end. It may well  
16 have been just Cutler's testimony.

17 Q Did you have a good rapport with  
18 Ms. Sherburne?

19 A I never knew her before this event. We  
20 worked well together. I found her to be very  
21 pleasant and cooperative.

22 Q Did --

1 A I didn't have any sort of social  
2 relationship with her.

3 Q You had frequent contact with her during  
4 the course of July 1994; correct?

5 A That's right.

6 Q On a daily basis?

7 A I don't think it was on a daily basis. I  
8 think that there were periods of time when I had  
9 nothing to discuss with her. I think for the most  
10 part, whenever I had a conversation with Jane  
11 Sherburne, it was about something that needed to be  
12 conveyed to someone else since I was doing the  
13 liaison.

14 So, you know, it's my impression that there  
15 is probably an E-mail or some other record that would  
16 indicate, you know, whenever I had a conversation  
17 with her about any matter of substance.

18 Q Did you have ongoing conversations with her  
19 during the month of July with regard to the White  
20 House's interest in obtaining transcripts?

21 A No. There were not ongoing conversations.  
22 She called me and she asked me on the 18th of July

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1 whether she could have access to the transcripts. I  
2 immediately sent an E-mail to Jim Cottos. Jim Cottos  
3 got back to me with his response on the 19th saying  
4 no. That was the essence of what he said.

5 I do not have any independent recollection  
6 of conveying that to Jane Sherburne. I know I must  
7 have. I wouldn't have left her hanging without an  
8 answer one way or the other.

9 So she was told no, based on the E-mail  
10 back from Jim Cottos, because once again, I wasn't  
11 making those sorts of decisions. I wasn't the  
12 decisionmaker. And the next time I heard about a  
13 request from the White House was on July 23rd.

14 Q Okay. Did Mr. Cottos give a rationale for  
15 why he didn't think it was appropriate to give  
16 transcripts to the White House on the 18th?

17 A No, he never said it was inappropriate. He  
18 didn't want to do it.

19 Q Did he say why?

20 A It's in the E-mail which you have a copy  
21 of. She said that she wanted to be able to deal with  
22 inconsistencies. He said he has the transcripts,

1 what would she be comparing it to. So he basically  
2 said no. It wasn't my place nor did I push it one  
3 way or the other. Just a request came in to me and I  
4 conveyed it to him. He said no. And I told her no  
5 or I should say would have told her no, because I  
6 don't have any independent recollection. We had  
7 no -- by the way, aside from that E-mail that he sent  
8 back to me, there is no other, there was no other  
9 communication between him and me with regard to that  
10 matter that I can recall. So that's the sum total of  
11 whatever reason he set forth.

12 Q Okay. Do you recall a staff meeting that  
13 was convened on July 5th, 1994 or a meeting --

14 A I know there was a staff meeting. I know  
15 he made notes. I've seen his notes. And I know that  
16 that was the same day, later in the day that I was  
17 going to meet with Jane and Sheila Cheston and Pat  
18 Black.

19 Q When you say "him," you are talking about  
20 Mr. Cottos?

21 A Yes.

22 Q And when did you see his notes?

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1 A I saw his notes in connection with the  
2 production to the independent counsel.

3 Q Do you recall if, during that meeting, it  
4 was discussed whether or not the OGE expected a  
5 report from the White House?

6 A I think that there is a note to that effect  
7 in his memo.

8 Q Well, I'm asking if you recall it.

9 A I've told you what I recall with respect to  
10 the report. When you ask the question was I aware of  
11 the fact that his note contained such a reference, I  
12 have no more recollection of it than what I've  
13 conveyed to you.

14 Q Okay. Do you know where this information  
15 came from?

16 A About them making a report?

17 Q About how the discussion came up in the  
18 meeting.

19 A Well, at that point, we still did not have  
20 an agreement with the White House as to whether or  
21 not we were going to be given access to witnesses and  
22 access to documents. We didn't have an agreement as

1 to how the witness questioning would proceed.

2 We knew that they were doing an  
3 investigation. What their final product would be, we  
4 weren't clear about except that they, too, were  
5 seeking some sort of opinion from OGE concerning the  
6 events in question.

7 Now, I don't know if the import of your  
8 question is did, somehow in the end, they not give  
9 the sort of report that we expected them to give in  
10 the beginning, and if that's the import of your  
11 question the answer is no, I was never clear as to  
12 what sort of report they would be making to the White  
13 House in the first instance.

14 Q I was just curious of your knowledge of the  
15 communications.

16 A And I'm always curious as to the import of  
17 your question.

18 Q Sometimes there may not be an import. I've  
19 been accused of that before.

20 After your meeting on July 5th with Jane  
21 Sherburne and Sheila Cheston and Pat Black, on July  
22 6th you received -- did you receive --

1 A The letter went to Bob Cesca, and I think  
2 Jack Adair from the White House.

3 Q And what was in the letter that you are  
4 referring to?

5 A A statement of how we'd get the documents.  
6 It may also have said whether or not we'd get access  
7 to witnesses. I forget. But, of course, I have it  
8 to refer to. But the import of it was that there  
9 were going to be three copies that we were allowed.

10 Q Restrictions on the use of the documents?

11 A Well, restrictions on the use of the  
12 documents insofar I think is if a witness hadn't  
13 produced the document themselves they could be shown  
14 the document, but the White House didn't want to  
15 append it to their deposition. In the end, the  
16 investigators not only didn't append any exhibits to  
17 their depositions, they never even kept copies  
18 separately segregated of all the exhibits that were  
19 shown to witnesses. That is something that, you  
20 know, that should have been done.

21 Whenever a witness was shown a piece of  
22 paper, it should have been marked as an exhibit so



1 that anyone looking at the transcripts would, at a  
2 subsequent point in time, know exactly what was shown  
3 to a witness.

4 Q Okay. After you received the July 6th or  
5 after Mr. Cesca and Adair, I would guess, and  
6 indirectly, you received the letter from the White  
7 House with regard to the transmittal of documents?

8 A Right.

9 Q Did you have a conversations with Ms. Black  
10 with regard to the receipt of the letter?

11 A I don't recall any particular conversations  
12 at that point. We had the documents. We were happy  
13 we had the documents.

14 Q Did you have any -- I guess what I'm  
15 specifically looking for or asking about, did you  
16 have any discussions with her about being glad that  
17 you received the documents?

18 A I would imagine that she would have learned  
19 from someone that we got the documents. I don't have  
20 any independent recollection of any conversations  
21 with her concerning the receipt of the documents.

22 Q Did you have any conversations with her

1 with regard to relaying to her the fact that you may  
2 have thought that the fact that an absolute refusal  
3 hadn't been given to the White House with regard to  
4 providing transcripts in that --

5 A No, the transcript issue was not an issue  
6 anymore. For the period of time, as I recall,  
7 between July 5th and July 18th, I don't recall any  
8 further request from the White House concerning the  
9 transcripts. And therefore, I don't recall -- I  
10 don't recall, not therefore.

11 But I don't recall any discussion with her  
12 concerning Pat Black, concerning the provision of  
13 transcripts to the White House.

14 Q During the July 5th meeting, did  
15 Ms. Sherburne tell you that the White House was going  
16 to be sending a letter the next day with regard to  
17 the documents?

18 A She may have.

19 Q Do you recall if she did?

20 A I don't have any independent recollection  
21 one way or the other. I do know that she, that we  
22 were expecting a letter. I certainly expected a

1 letter with the documents. Whether she said it would  
2 be the next day, I don't have that sort of recall.  
3 The letter did not come as a surprise.

4 Q Were the discussions you had on the 5th --  
5 withdraw that.

6 With regard to the interviews that were  
7 conducted of the different witnesses, did you  
8 participate in helping prepare any questions and  
9 answers for the interviews?

10 A Yes, I certainly did.

11 Q And what type of participation did you  
12 have, what did you do?

13 A I prepared pages and pages of questions for  
14 witnesses. Probing questions I think.

15 Q And what witnesses did you prepare  
16 questions for?

17 A The ones I remember were Nussbaum, Steiner,  
18 Altman, Foreman, Hanson. I may have also prepared a  
19 set of generic questions for people.

20 Q Okay. And do you recall when you prepared  
21 the Steiner questions?

22 A The Steiner questions, no, I don't recall.

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1 There's an E-mail that's in the record.

2 Q I was just going to show it to you, Exhibit  
3 1177 -- excuse me, Bates number 1177. A copy of an  
4 E-mail dated July 11th from Francine Kerner to James  
5 Cottos. Let me know when you've had a chance to  
6 review it.

7 A Yeah, I've reviewed it.

8 Q Does this refresh your recollection to when  
9 you completed the --

10 A Steiner's questions, it appears I completed  
11 them July 11th. But I want to say that I don't have  
12 any copy of the Steiner questions, and the IG's  
13 office may have produced copies of the Steiner  
14 questions. For one reason or another, I don't have a  
15 copy of them in my papers.

16 Q Okay. Who did you provide the questions  
17 to?

18 A Always to Jim and/or Raisa Cesario, or the  
19 investigators.

20 Q And "Jim" being Jim Cottos?

21 A Jim Cottos, thank you.

22 Q And who is Raisa Cesario?

1 A That was his deputy, that was his deputy at  
2 the time.

3 Q Did he tell you if he used the questions or  
4 if the questions were used?

5 A Well, I had the transcripts, so certainly I  
6 could see whether or not the questions were used. I  
7 would say a fair number of them were not used. Some  
8 of them were. I don't -- I don't know that any of  
9 them were used verbatim as I created them.

10 Q Do you remember what interviews  
11 incorporated questions that you authored?

12 A No. I do know that there needed to be  
13 follow-up questioning of Altman and Hanson. And I  
14 provided a second set of questions for those  
15 interviews as well. I remember I was very concerned  
16 that Altman BS'ed about his diary entries and I  
17 didn't believe that had been adequately covered the  
18 first time around. And there were questions as well  
19 for Jean Hanson.

20 OGE also got a copy of the transcripts and  
21 they were also suggesting additional follow-up  
22 questions for Hanson and Altman. I think those are

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1 the only two witnesses that were questioned twice.  
2 There may have been someone else, but not that I  
3 recall off the top of my head.

4 Q Do you specifically recall if any questions  
5 were asked in the Steiner interview?

6 A No, I don't. And I'd be curious to know  
7 whether the questions still exist in the OI files.  
8 Maybe you have a copy of them.

9 Q Actually, I just want to state for the  
10 record the time on the E-mail is 10:44 p.m.

11 A I don't know whether or not Steiner had  
12 already been interviewed by then.

13 Q The date of this is July 11th.

14 A Right. I don't know when he was  
15 interviewed.

16 Q Do you think it's likely that you furnished  
17 the questions before he was interviewed?

18 A I don't recall. That was certainly my  
19 intent, to finish questions before people were  
20 interviewed.

21 Q Does it refresh your recollection if I told  
22 you Mr. Steiner was interviewed on July 12th and that

1 the following day?

2 A Well, it makes me happy to know the  
3 questions got there before he was interviewed.

4 Q Did you have any contact with Mr. Steiner's  
5 lawyer during the month of July?

6 A Oh, sure.

7 Q Do you recall whether you had met with him  
8 before his interview?

9 A He was the one who personally handed me a  
10 copy of Steiner's diary entry.

11 Q And when did he do that?

12 A I don't recall. I don't recall.

13 Q Can you give an approximate time?

14 A It had to be sometime between July 5th and  
15 July 11th.

16 Q Do you recall whether you met with  
17 Mr. Steiner the night before Mr. Steiner's interview?

18 A Met with him the night before?

19 Q Mr. Weingarten.

20 A No. You asked me whether I met with  
21 Mr. Steiner the night before.

22 Q I meant to change it just then. I was

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1 amending my question.

2 A Okay. Okay. It may have been the night  
3 before that I met with him.

4 Q Do you recall whether you met with him  
5 after you completed drafting the questions for  
6 Mr. Steiner that you E-mailed to Mr. Cottos?

7 A You are asking me whether it was before or  
8 after that I met with his attorney?

9 Q That you finished the questions, yeah.

10 A Well, he gave me, as I recall, he was the  
11 one who gave me a copy of the diary entry. Since my  
12 E-mail says these incorporate questions concerning  
13 the diary, I assume that I had at least one meeting  
14 with him before the questions were composed for him  
15 to give me a copy of the diary. I don't remember if  
16 I had a second meeting with him.

17 His concern was Weingarten's concern, as  
18 was Altman's attorney's concern, was how the diary,  
19 at that point which had not become public, would be  
20 used during the course of questioning, would it be  
21 made a copy of the deposition because people knew the  
22 depositions were going to become public. And then



1 there was some confusion, I think, with regard to the  
2 questioning of people over whether or not people  
3 could be questioned about the diary entries. You  
4 know, it was a difficult situation to try to give the  
5 input and make sure that it was utilized.

6 Q Did you have any discussions with  
7 Mr. Schmalzbach about meetings you might have had  
8 with Mr. Weingarten?

9 A I don't recall whether I did or I didn't.  
10 I may have said to him that I got a copy of the  
11 diary.

12 Q Did you ever discuss or tell him that you  
13 were having meetings with Mr. Weingarten for any  
14 specific purpose?

15 A I don't recall that I did. I just -- let  
16 me backtrack here to make this clear.

17 This diary entry was considered sensitive.  
18 As you know, Mr. Steiner got questioned rather  
19 vigorously about the diary entries, as well he should  
20 have. The diary then was given to me by Weingarten  
21 who was concerned, at a point in time when it was  
22 still not public, how it would be utilized.

1 And as I recall, what I said to him and  
2 what Jim Cottos agreed to as our procedure for both  
3 of these diaries, both Altman's diary and this diary,  
4 was that the witnesses would be asked questions. And  
5 as long as they answered in accordance with their  
6 diary entries, they would not have a copy of the  
7 diary appended to the transcript. That was the way  
8 we proceeded.

9 Then I think there was some sort of  
10 dispute --

11 MR. O'CALLAGHAN: Why don't we go off the  
12 record for a second.

13 (Discussion off the record.)

14 THE WITNESS: Now, just to back up here a  
15 minute. I had a copy of Steiner's diary. They had a  
16 copy of the Altman diary. You may recall that Jim  
17 Cottos sent me an E-mail early on telling me he  
18 didn't want me to talk directly to the  
19 investigators. So for the most part, I had no  
20 conversations with the investigators.

21 I believe I have some vague recollection  
22 that there may have been confusion on the

1 investigators' part as to how they could use the  
2 diaries for questioning. But they had the diaries  
3 and it was up to them how to use them.

4 BY MR. O'CALLAGHAN:

5 Q I guess my specific question is whether you  
6 recall having a meeting with Mr. Weingarten at 11:00  
7 the night before Mr. Steiner's interview.

8 MR. PORTNOY: I'm just going to state for  
9 the record an objection because the resolution speaks  
10 to whether the report issued by OGE or related  
11 deposition transcripts were either improperly  
12 released to the White House, or were used to  
13 communicate to White House officials, or to others,  
14 confidential RTC information.

15 At this point, we're discussing a  
16 deposition that hadn't been occurred yet. So it's  
17 fairly difficult to see how the transcript of that  
18 deposition could have been conveyed to anybody. With  
19 that objection --

20 BY MR. O'CALLAGHAN:

21 Q You can answer the question. Whether you  
22 recall having a meeting with --

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1 A I don't recall. I know I met with him on  
2 more than one occasion. I don't recall the times of  
3 the meetings or their dates.

4 Q And did you have any discussion with him  
5 with regard to questions prepared for Mr. Steiner's  
6 interview?

7 A I don't recall having such a conversation,  
8 no.

9 Q Do you generally recall having  
10 conversations with witnesses' attorneys about  
11 conversations that are going to be asked in a  
12 deposition?

13 A I discussed with him generally how the  
14 deposition was going to be conducted, yes.

15 Q What were the general discussions?

16 A There are going to be two investigators,  
17 one from RTC and one from the IG's office. They're  
18 going to be sworn statements, there's going to be a  
19 transcription. That was the general discussion.

20 Q Were there any discussions of the specific  
21 questions that were going to be asked in the  
22 deposition?

1 A I don't recall having any such discussions,  
2 no. Except now, let me just say, we were talking  
3 about how the diaries were going to be used. Insofar  
4 as it was a hope on the part of the defense counsel  
5 that the diary entries would be treated in a  
6 confidential manner and that witnesses would be asked  
7 questions related to the diaries without having to  
8 make the diaries a part of the record, insofar as I  
9 had those discussions, yes.

10 Q Were specific parts of the diary identified  
11 as to what questions were going to be asked?

12 A As to what --

13 Q I'll ask the question again. It wasn't  
14 very well stated.

15 Were portions of the diaries identified as  
16 subject questions?

17 A I may have said to somebody looking at this  
18 one page of Steiner's documents -- and I have no  
19 independent recollection of this -- but it would be  
20 my practice to say something like well, look, he's  
21 going to have to answer questions about -- you may  
22 not consider that significant, but obviously he's

1 going to have to answer questions about X, Y and Z in  
2 the diary.

3 Remember, I had never seen the diary before  
4 and now I have the defense counsel who is telling me  
5 he doesn't want his client questioned about it. And  
6 it would seem to me to be perfectly natural to say in  
7 response to that well, you may not want your client  
8 questioned about it, but he's certainly going to have  
9 to answer questions about it.

10 But I can tell you I never, ever gave any  
11 attorney for any of these people, these witnesses  
12 copies of any of the questions that I had developed  
13 concerning the questioning of their witnesses.

14 Q Did you ever have any discussions about the  
15 questions you developed?

16 A With whom?

17 Q With the attorneys for any of the  
18 witnesses.

19 A I just explained to you how with regard to  
20 the diary.

21 Q Other than that? I'm sorry.

22 A Not that I recall, no.

1 Q Did you have any discussions with  
2 Ms. Sherburne about meetings you had with  
3 Mr. Weingarten, is that something you would have  
4 done?

5 A I don't recall. I don't have any  
6 independent recollection of telling her whether or  
7 not I met with Weingarten.

8 Q I'm just going to show you what bears a  
9 Bates stamp 532. I'll identify it for the record.  
10 It's a one-page document. It appears to have copies  
11 of three phone message slips, and top two are  
12 addressed to Francine, and the middle one doesn't  
13 seem to have an address on it, but it says it's from  
14 Jane Sherburne. Time 4:37. And there's a notation  
15 says "Reid Weingarten adjusts Steiner interview to"  
16 and then a notation I don't recognize, it says 10:30  
17 and a number 429.

18 A Josh Steiner, there's an at 10:30. The 12  
19 is referring to the date of the interview, which was  
20 July 12th. July 12th at 10:30.

21 Q My first question is, is this a message  
22 slip that was intended for you?

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1 A I have no idea.

2 Q Do you recognize the handwriting?

3 A I don't know where you got, where it came  
4 out of. If it was --

5 Q Do you recognize the handwriting on it?

6 A No, I don't. It's not my handwriting.

7 Q Is it anyone who worked for you at the  
8 time?

9 A I don't recognize it. That doesn't mean  
10 it's not, it just means that I don't recognize it as  
11 being anyone's handwriting. During this period of  
12 time, it was very important that we get the  
13 scheduling straight for different witnesses. So it's  
14 quite possible that witnesses, you know, that she was  
15 aware of when different witnesses were being  
16 interviewed.

17 Q Because you were coordinating interviews  
18 that you were conducting?

19 A That's correct. Coordinating the timing.

20 Q Because they were conducting interviews  
21 also at the White House?

22 A And because they needed to supply witnesses



1 at different times so that if we then had a period of  
2 time that we had blocked out for Steiner, that  
3 wouldn't have been available for some other witness.

4 Q You were working on a tight schedule;  
5 right?

6 A Yes.

7 MR. O'CALLAGHAN: Would you all be amenable  
8 to a lunch break now.

9 (Whereupon, at 1:10 p.m., the deposition  
10 was recessed, to be reconvened at 2:00 p.m. this same  
11 day.)  
12  
13  
14  
15  
16  
17  
18  
19  
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21  
22

1 AFTERNOON SESSION (2:05 p.m.)

2 Whereupon,  
3

4 FRANCINE J. KERNER

5 resumed the stand and, having been previously duly  
6 sworn, was examined and testified further as follows:

7 THE WITNESS: Earlier, before the lunch  
8 break, you asked me a question which suggested that  
9 there's a note from Ken Schmalzbach showing that I  
10 had a meeting with Reid Weingarten at 11:00 p.m. on  
11 July 11th. And if you have any document that would  
12 refresh my recollection of that, I would like to see  
13 it now.

14 EXAMINATION (Continued)

15 BY MR. O'CALLAGHAN:

16 Q Well, sure. I'd be happy to show you. I  
17 don't know if it will refresh you or not. Let me  
18 see. A document Bates stamped 1095. And it's a  
19 one-page document, a copy from a spiral-bound  
20 notebook which was produced to us by  
21 Mr. Schmalzbach. It says "Francine" at the top and  
22 then it has a date and then it has a number of  
successive dates with times after them and names.

1 And then it concludes with "Francine will E-mail  
2 Cottos on transcripts for T counsel," which I think  
3 is Treasury counsel.

4 A Well, I note that the document says 7 --

5 Q Before you make any notation, I'd like to  
6 ask you first if you've ever seen this before.

7 A Never.

8 Q Do you recognize the handwriting on the  
9 document?

10 A No, I don't. Absolutely not.

11 Q Have you ever seen Mr. Schmalzbach's  
12 handwriting?

13 A I probably have, but I wouldn't -- I  
14 haven't seen it often enough to be able to  
15 distinguish it from anyone else's handwriting.

16 Q And for the record, at the top of the  
17 document, it says "Francine 7/8" and then there are  
18 dates and days of the week that follow it. And the  
19 fourth entry down says "7/12, Tuesday, 10:30 a.m. --  
20 Josh," and then it says "(Weingarten meet with FK  
21 Monday 11:00 p.m.)."

22 And at your request I'm showing you this to

---

1 see if it refreshes your recollection whether you met  
2 with Mr. Weingarten on Monday, July 11th at 11:00  
3 p.m. at night.

4 A Well, it doesn't refresh my recollection.  
5 I will say that the note seems to be dated 7/8 which  
6 would mean --

7 Q Do you know whether it is or not?

8 A Well, at the top, it says "Francine-7/8."  
9 And the earliest date represented on it is 7/8 --

10 MR. PORTNOY: I'd just like to ask, when  
11 you read the note, you said meet Monday at 11:00 p.m.

12 I'd like to ask the witness whether that could be  
13 Monday the 11th in the afternoon. I just don't want  
14 the record to reflect a particular interpretation of  
15 the statement.

16 MR. O'CALLAGHAN: The reason I didn't  
17 initially use this document to refresh the witness's  
18 recollection is because the witness didn't produce  
19 it. The witness has just testified that she's never  
20 seen it before, so I don't know how she can comment  
21 as to whether or not --

22 THE WITNESS: It's a fair comment actually

1 because it does say "Weingarten meet with FK Monday  
2 11:00 p.m." I don't know. The 12th is Tuesday  
3 according to this. This was written down on 7/8. I  
4 don't know where he got this information from.

5 However, I will point out that, in the  
6 documents I've produced for the committee, there's a  
7 Bates stamp number 000007 which is an E-mail from Jim  
8 Cottos to me for July 11th, 1994, 8:48 a.m. and that  
9 he refers to an E-mail I sent him at 2:08 a.m. on the  
10 11th. We were working very long hours then, around  
11 the clock, and so I certainly would have been in the  
12 office at 1:00 p.m.

13 I'd also like to point out that the next  
14 day was Josh Steiner's testimony, and it may well be  
15 that Mr. Weingarten had come into the building --  
16 Josh Steiner worked in the same building that I  
17 worked in too -- in order to meet with his client.

18 Aside from that, I have no recollection of  
19 when I met with him.

20 MR. O'CALLAGHAN: Okay. That was the only  
21 question. Thank you.

22 MR. PORTNOY: Off the record.

1 (Discussion off the record.)

2 BY MR. O'CALLAGHAN:

3 Q Okay. Back on the record. During the  
4 course of the investigation, were there any  
5 negotiations with the White House or counsel for  
6 White House witnesses with regard to the scope of the  
7 questioning?

8 A There was an agreement. An issue came up  
9 about whether or not we would question witnesses  
10 about whom they gave information to, White House  
11 witnesses about whom they gave information to. So  
12 let's say, it was a question of Mr. Nussbaum received  
13 some information, and then he may have conveyed it to  
14 Mr. Podesta -- I'm just making up names off the top  
15 of my head. The question then would be would our  
16 inquiry go to the next level and would we ask  
17 Mr. Podesta at that point whom he had conveyed the  
18 information to, or whether -- would we ask  
19 Mr. Nussbaum whether he knew who Podesta had conveyed  
20 it to.

21 I think that was the issue, and I don't  
22 know that RTC, the AIGI at RTC and Jim Cottos, what

1 they finally agreed to in resolving that.

2 Q You don't know what the agreement was?

3 A I don't recall. I don't recall.

4 Q Who is the AIGI -- wait.

5 A The AIGI?

6 Q Yes.

7 A At RTC?

8 Q Correct.

9 A I don't remember his name.

10 Q Was it Clark Blight or Steven Switzer?

11 A One of them was the deputy, because you are  
12 refreshing my recollection. One was the deputy and  
13 one was the AIGI. I think Clark was the AIGI.

14 Q And --

15 A There was a dispute among the investigators  
16 about how far the questioning should go with regard  
17 to that. And I think there's an E-mail that reflects  
18 that Jim Cottos said that he was having trouble, you  
19 know, keeping RTC to the questions that he thought  
20 encompassed the investigation.

21 Because we were interested, let me just

22 explain this -- we were interested in who Treasury

---

1 gave the information to -- because we were interested  
2 in whether Treasury people had miscommunicated or  
3 communicated information that shouldn't have been  
4 communicated. Once the information had been  
5 communicated to the White House, then it was the  
6 responsibility of the White House to determine  
7 whether or not the person who got the information  
8 had, you know, improperly communicated it to anybody  
9 else.

10 Q Were there any agreements reached with the  
11 White House with regard to what the scope of the  
12 questioning would be?

13 A You mean other than what I just described?

14 Q Well, with the White House, I mean not with  
15 regard to between the --

16 A Well, that was an issue that was also  
17 raised with the White House.

18 Q And who was it raised with?

19 A I'm not sure. I don't remember. I  
20 remember it as an issue.

21 Q Were you engaged in discussions regarding  
22 that issue with the White House?



1 A You know, I don't remember. I know it was  
2 a general concern. I don't remember -- the  
3 disagreement, if there was any disagreement, it was  
4 between, I think, the RTC and Treasury. I'm not sure  
5 it extended to the White House.

6 Q What was the White House's view on what  
7 appropriate questions were?

8 MR. PORTNOY: I don't know that she's  
9 testified that the White House had a view.

10 MR. O'CALLAGHAN: I'm asking if she knows.

11 THE WITNESS: Right. I don't recall what  
12 the White House position was. I have a vague  
13 recollection that they only wanted it to go one  
14 level, as I've described it, that it would go  
15 Nussbaum and then who Nussbaum gave it to, beyond  
16 that, they felt that they were, I think, as I recall,  
17 that they were encroaching on, you know, privilege  
18 and that they were going to take care of that end.

19 BY MR. O'CALLAGHAN:

20 Q That they would take care of it during the  
21 course of their investigation --

22 A That's right.

1 Q -- of conduct by White House officials?

2 A Right.

3 Q Did Mr. Schmalzbach ever have conversation  
4 or relate the contents of discussions he had with  
5 Ms. Sherburne with regard to transcript discussions?

6 A No.

7 Q When the transcripts were given to  
8 Mr. Schmalzbach on the 18th --

9 A Yes.

10 Q -- how were they delivered to him?

11 A Well, as I said before, I was on the floor  
12 above him, and there's this big winding staircase.  
13 You go down it and you are basically at his offices.  
14 You go up it and you're at mine. I think he sent up  
15 a secretary to do the Xeroxing. I think he was  
16 taking care of making copies for his own office.  
17 That's what I recall.

18 Q It's your recollection that a secretary  
19 from his office came up to your office and made  
20 copies up there and then brought them back?

21 A No, I think she may have taken them with  
22 her to make copies. I would have, of course,

1 directed her as to what to take, more so than on my  
2 staff.

3 Q Do you recall doing that?

4 A I have a vague recollection that it was  
5 done by a secretary from his office because he had  
6 the manpower and I didn't.

7 Q How many copies did he make on the  
8 transcripts?

9 A He, his secretary?

10 Q His secretary, yes?

11 A I have no idea.

12 Q Do you know how many copies he had in his  
13 office after the 18th?

14 A I have no idea.

15 Q Were you ever told?

16 A No.

17 Q Did you put any limitations on the number  
18 of copies that can be made of the transcripts?

19 A No.

20 Q On the 18th, had Mr. Schmalzbach made  
21 specific requests again for the transcripts?

22 A Well, the note you showed me showed that he

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1 was asking for it, I think, on July 8th. I don't  
2 have any recollection of his having requested. There  
3 was something that propelled me to consult Bob Cesca  
4 and Jim Cottos. It could have been Schmalzbach's  
5 request. I don't have any independent recollection.

6 Q Do you recall whether you came to the  
7 conclusion yourself that it was the right time to ask  
8 Mr. Cottos and Mr. Cesca whether it was okay to give  
9 the transcripts to Mr. Schmalzbach?

10 A I don't know whether I -- whether it was  
11 self-initiated on my part. I don't recall.

12 Q This might help refresh your recollection.  
13 But did Mr. Schmalzbach give you ideas of specific  
14 purposes that they were going to put the transcripts  
15 to, to what uses they were going to put them to?

16 A I don't recall. I don't recall that.

17 Q Did he ever tell you?

18 A He may have told me. I don't recall a  
19 conversation with him as to what he was going to do  
20 with the transcripts.

21 Q Did he tell you after, what uses he put  
22 them to?

1 A Well, for one thing, I know one use they  
2 put the transcripts to, of my own knowledge, was that  
3 they reviewed the transcripts against the chronology  
4 that we produced and came up with comments about the  
5 chronology. That was one use they put it to.

6 They also summarized what each witness  
7 said. They created a summary of what each witness  
8 had said, and they gave me a copy of that as well.

9 Q You got a copy of the summaries?

10 A Yes, and it was produced to the committee.  
11 Aside from that, there was the restriction, as we've  
12 discussed, about not using -- not sharing the  
13 transcripts among the witnesses until July 26th. I  
14 don't have any specific recollection of any other  
15 discussion.

16 Q Okay. Why was the date July 26th chosen?

17 A That was, I think, when the Senate Banking  
18 Committee was scheduled to have completed its  
19 depositions of Whitewater witnesses.

20 Q Senate Banking Committee or Senate/House,  
21 was it House or Banking, do you recall?

22 A It's in that note, the July 18th E-mail,

1 whatever that says. And I have in mind that that was  
2 the 26th, but I may have the date wrong.

3 Q I'll show it to you. Just to make sure.

4 A I don't know whether the 26th was the date  
5 that they originally contemplated or that turned out  
6 to be the date.

7 Q Okay. I just showed you 366.

8 A Okay. Well, thank you for refreshing my  
9 recollection. It doesn't have a date. It simply  
10 says that "Secretary Bentsen will not permit these  
11 transcripts to be shared among agency employees until  
12 the Senate Banking Committee completes its  
13 depositions." So it was the Senate Banking  
14 Committee.

15 Q Do you know if the transcripts were shared  
16 with witnesses before the end of the Senate Banking  
17 Committee depositions?

18 A I have no knowledge of that. And when you  
19 say "shared with witnesses," just to remind us all,  
20 on July 18th witnesses started getting copies of  
21 their own transcripts.

22 Q For purposes of correction?

1       A   Yes, and they were certainly allowed to  
2   make a copy and keep a copy if they so desired. And  
3   so, you know, they were under no restriction  
4   regarding whom they could share those transcripts  
5   were.

6       Q   Were the witnesses all or some of the  
7   witnesses asked to keep the contents of the  
8   interviews confidential at any time?

9       A   I don't recall. If they were, it was at  
10   the beginning of each transcript. I don't recall  
11   whether or not they were asked to do that.

12      Q   Do you recall if that was, if you had a  
13   discussion with anyone whether that was desirable or  
14   not?

15      A   No, I don't recall discussion about that;  
16   which is not to say one didn't take place. I always  
17   like to say that for the record. That's not an  
18   unequivocal no. It's an -- I don't have an  
19   independent recollection.

20      MR. O'CALLAGHAN: Can we go off the  
21   record.

22      (Discussion off the record.)

1           BY MR. O'CALLAGHAN:

2       Q   You stated earlier that one of the uses of  
3   Mr. Schmalzbach and people working with him put the  
4   transcripts to was to prepare summaries; is that  
5   correct?

6       A   Yes.

7       Q   I'd just like to show you for  
8   identification a document which is several pages  
9   long. It's Bates stamped 015244 through 015335.

10      A   Whose production is that, if I might ask?

11      Q   I'd rather just have you look at it and  
12   tell me if you've ever seen it before.

13      A   I've never seen the top sheet before.

14      Q   Absent the top sheet.

15      A   I don't know whether I've seen all of the  
16   contents of this document before. If I knew whether  
17   or not it was an IG production, I'd be able to tell  
18   you. If it's not from the IG's office, I can't state  
19   with certainty whether or not I've seen it before.  
20   It certainly looks like portions of pages that I  
21   would have had up in the IG's office. Whether I had  
22   every page, I can't tell you.



1 Q Okay. I would just like to ask you some  
2 more general -- or specific questions with regard to  
3 specific pages. I'd like to direct your attention to  
4 page 015250.

5 A 0152 what?

6 Q 50.

7 A That's Roger Altman?

8 Q Correct. And this portion of the document  
9 which says "Roger Altman" appears to be two pages  
10 long. If you'll turn to the next page 015251.

11 A Right.

12 Q Are those two pages, do those appear to be  
13 summaries of the type that Mr. Schmalzbach and  
14 Mr. McHale prepared that you were referring to?

15 A Well, I don't know that they prepared it.  
16 It may have been someone on their staff, number one.  
17 Number two, I'm not sure about the heading looking  
18 the same as what I saw. And I'm not sure that I ever  
19 saw this particular document. I mean, I have  
20 produced, for the Committee, summaries that I was  
21 given, that I have in my possession. I can't tell,  
22 off the top of my head, whether this is one of the

1 documents that I've produced for the committee. And  
2 if I haven't produced it for the committee, then I've  
3 never seen it before.

4 Q I'm just asking independent of referring to  
5 your production.

6 A I understand. But I'm just trying to  
7 explain to you that I have no way of knowing whether  
8 or not what you have here is complete. It may be a  
9 more complete set, it may be a different set than  
10 what I have in my papers. And if it's not what I  
11 have in my papers, then I can't be certain that I've  
12 ever seen it before.

13 Q Okay. Do these, taking a look at the  
14 various summaries which appear --

15 A This is the sort of summary that the  
16 general counsel's office did, that I can say.

17 Q Okay. Thank you. Did the general counsel  
18 folks who worked on the summaries --

19 A And I should -- again, I'm talking about  
20 McNamara, McHale, and Schmalzbach.

21 Q Do you know who prepared the summaries that  
22 we're referring to in that office specifically?

1 A No.

2 Q Do you know who assisted Mr. Schmalzbach,  
3 Mr. McHale and Mr. McNamara during this time period?

4 A Peter Rittling and David Dougherty were the  
5 names of two attorneys who assisted. Also Mark  
6 Kingston who represented Dennis Foreman.

7 Q With regard to the summaries that you  
8 described that they prepared, were you told the  
9 purpose or the reason why they were, why they were  
10 prepared, for what purpose?

11 A No.

12 Q Have you since learned?

13 A No.

14 Q I believe you stated earlier that you  
15 submitted suggestions to the -- for changes in the  
16 draft report that was produced by the two IG offices;  
17 is that correct?

18 A Excuse me? I'm sorry. My mind slipped for  
19 a minute.

20 Q That's fine. Well, I'll just ask you the  
21 question rather than try to paraphrase your  
22 testimony.

1 Did you provide suggestions or comments or  
2 suggested edits to the draft report that was prepared  
3 by the two IG offices, draft chronology?

4 A That was prepared, that we were preparing?

5 Q Correct.

6 A It was a joint effort, yes.

7 Q I'd like to show you a document Bates  
8 stamped 035 through 038.

9 A Yes, that's a document I prepared -- well,  
10 I prepared the typewritten portions of the document.  
11 There are handwritten notes on the document; some of  
12 which are mine, some of which are not mine.

13 Q Can you identify which handwritten portions  
14 of this document are your handwriting?

15 A Well, this isn't a very good copy, but on  
16 the first page 035, there's something in the margin  
17 which says "should be" -- "should be reworded," I  
18 think that's probably what it says. That's my  
19 handwriting.

20 Q And where else does it appear?

21 A On the next page, page 2, there's the third  
22 paragraph which says "problems, chron should" and

1 there's an insert "probably reflect her testimony,"  
2 that's my handwriting.

3 Q Okay. Anywhere else?

4 A On page 038, and the previous page with the  
5 word -- probably was 036, that's the Bates stamp  
6 number. There's a circle around the top full  
7 paragraph that brings something down to the bottom,  
8 and I believe that's my handwriting as well.

9 Q And what makes you believe that's your  
10 handwriting on that page?

11 A I think that that's on the version of the  
12 document I have that doesn't have anybody else's  
13 handwriting on it.

14 Q Do you remember making, suggesting that  
15 change to the document you produced?

16 A Which change?

17 Q The circle with the arrow.

18 A Well, that was just suggesting that  
19 something be moved to a different place.

20 Q Correct. I mean, do you recall --

21 A Yeah, well, if I circled it and moved it  
22 down, as I believe I did, then it was my suggestion.

1 But it doesn't seem to -- I think that the reason I  
2 moved it down, reading the paragraph, is because it  
3 doesn't relate to the chron specifically. It's  
4 giving them additional information about something  
5 that was submitted by Hanson's attorneys literally at  
6 the 11th hour at some point late last night. So that  
7 it was not in the right spot.

8 This was typed, by the way, at my home late  
9 in the evening on a hand typewriter. I didn't own a  
10 computer at that time, and if I had owned a computer,  
11 I just would have moved it down automatically.

12 Q Okay. And just to show you the first page  
13 of the document, there's a fax line which reads  
14 July --

15 A Yes. Kinko's, I faxed it from Kinko's to,  
16 right after midnight, I think to the offices of Bob  
17 Cesca and Jim Cottos because what was happening is  
18 Jim tended to come in very early in the morning and I  
19 tended to come in later because I have young kids  
20 that I would get off to school and then I would stay  
21 later. So in order to give both Bob and Jim -- Bob  
22 also would come in early -- an opportunity to see

1 this first thing in the morning, I faxed it to them  
2 late at night.

3 Q And just for the record, the fax line July  
4 21, '94, is that consistent with your recollection?

5 A Oh, yes.

6 Q Thank you.

7 A Now, there are a lot of crossing outs, and  
8 that's not my handwriting.

9 Q Other than the people in the IG's office,  
10 people working on the investigation, did other people  
11 contribute comments or edits to the draft report?

12 A Sure.

13 Q And who else did that?

14 A OGE did a lot, and then OGC had a few  
15 comments that they contributed. Now, the draft  
16 report, when we talk about the draft report, we're  
17 talking about the chronology that appeared at the  
18 front, and it was, the purpose of that chronology was  
19 to focus on some of the more important points. The  
20 plan was to have a chronology at the front and the  
21 transcripts behind, so that the public and Congress  
22 would have the actual transcripts and they could

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1 utilize those transcripts as they saw fit.

2 Q How many times would you say OGE  
3 contributed to revisions to the report?

4 A How many times?

5 Q Yes.

6 A Okay. Any time they contributed a revision  
7 with the possible exception of the last evening  
8 before the final report was issued --

9 Q I'm sorry, when was the final report  
10 issued?

11 A I think it was issued that Friday. I may  
12 have said the date wrong the last time. The 23rd,  
13 then seven days later would have been the 30th. So I  
14 think it was the 29th. I think it was the 29th of  
15 July that we issued our report. And then OGE issued  
16 its opinion on the 30th, and then the Secretary made  
17 it public on the 31st.

18 Q Was there a draft that was sent to the  
19 Secretary and OGE earlier than that?

20 A Yes, the draft was sent on the 22nd to both  
21 those groups.

22 Q Who contributed to that draft?



1 A To that draft?

2 Q Correct.

3 A I don't know whether OGE contributed to  
4 that draft, but if they did contribute to that draft,  
5 there's a record of it. I mean, there's a fax and  
6 whatever the date of that fax is, that's the date  
7 they contributed. I certainly contributed. OGC did  
8 not contribute to that draft. Whatever they  
9 suggested was between the draft report and the final  
10 report.

11 Q And how did they become involved in the  
12 drafting process?

13 A Well, they got the draft -- well, they  
14 didn't become involved in the drafting process in  
15 that -- that has, again, a connotation to it -- well,  
16 let me explain what happened --

17 Q Well, they participated; right?

18 A Well, not really. They didn't do it by  
19 invitation. On the 22nd of July --

20 Q Well, they participated in the --

21 A Well, let me tell you what happened. On  
22 the 22nd of July we issued the draft report.

1 Sometime during the course of the following week,  
2 Steve McHale approached me and said look, you know,  
3 yours is an independent investigation.

4 And I always like to qualify things. I  
5 always like to qualify this, given what I'm about to  
6 say, so please, it's, your independent, but here's a  
7 sheet of suggested changes, some of which are minor,  
8 not much substantive. If you consider it appropriate  
9 to make these changes, you know, because you consider  
10 that they more accurately or fairly reflect what's in  
11 the chron, that's great. If you don't want to make  
12 these changes, that's fine, too. That was the  
13 general gist of what he said to me.

14 Q Do you recall when that conversation took  
15 place?

16 A Sometime between the 22nd and the next  
17 Friday which was the 29th. Now, with regard to those  
18 changes, there was a final drafting session on the  
19 28th of July. Now, at that drafting session, there  
20 were both IGs, both AIGIs, at least three of the four  
21 investigators, both counsels to the IG, and we were  
22 in phone communication with OGE. At that meeting we

1 sat around a big table and we went through the  
2 chronology line by line.

3 As part of that process, I held a couple of  
4 pages of OGC's comments and I said to everybody,  
5 these are comments from our Office of General  
6 Counsel, the attorneys who are handling this for the  
7 Secretary. Here's what they suggest. And then we  
8 went down each change and they were voted up or they  
9 were voted down. And that's how whatever suggestions  
10 they had were considered.

11 Q So you, you identified the changes that you  
12 had as coming from the Office of General Counsel?

13 A Absolutely.

14 Q Was there a reaction to that by anyone in  
15 the meeting?

16 A No, everybody understood what happened.  
17 The report had gone, the draft report had gone to the  
18 Secretary. He had certain people within his  
19 organization who were handling the legal review and  
20 analysis. Everybody knew who those people were and,  
21 you know, they understood where the changes were  
22 coming from.

1 Q Other than the -- well, let me go back to  
2 when Mr. McHale approached you with the suggested  
3 changes.

4 Did you express a reaction to him when he  
5 handed them over to you, did you say thank you, or  
6 did you say --

7 A I don't recall what I said to him. I don't  
8 recall.

9 Q But you recall specifically what he said to  
10 you?

11 A I recall specifically what he said to me  
12 because I remember his being very careful about the  
13 fact and feeling awkward about the fact that he was  
14 giving me the piece of paper. And this is a common  
15 reaction that people have when they make any  
16 suggestion to an IG's office, because on the one  
17 hand, they want to give input, they want their ideas  
18 to be considered. On the other hand, you know, they  
19 want it clear that they recognize your independence  
20 and that you're in charge of the investigation. And  
21 from my perspective, I can't remember a single change  
22 that was suggested there.

1 Q Do you remember trying to make him feel  
2 more at ease about his approaching you with the  
3 suggestions?

4 A I didn't think it was any big deal that he  
5 was giving me copies. I don't think I did. I don't  
6 recall being concerned about it in any way. I may  
7 have -- I may have expressed concern. I don't really  
8 recall. I don't recall.

9 Q Did he tell you who participated in putting  
10 together the document that he had given you?

11 A No.

12 Q Did anyone from OGC give you any other  
13 edits or suggested revisions to the draft?

14 A No, absolutely not.

15 Q It was just that one time, right?

16 A They were really lawyer-like comments. You  
17 know, the chron says this, we've compared it to the  
18 transcript. We don't think it's an accurate  
19 reflection of the transcript. And every change was  
20 backed up by some reference to the transcript so it  
21 wasn't just general we'd like you to change this  
22 please, it was always tied back to a transcript.

1 Q I'd like to show you a document Bates stamp  
2 01564 and I believe it's a 5 that follows. It's kind  
3 of hard to see because of the copy and it goes  
4 through 015647. And the question is, have you ever  
5 seen this document?

6 A Well, this could be the pages that Steve  
7 handed me, Steve McHale handed me. I note that it's  
8 2-1/2 pages, which is what I remembered, that it was  
9 about two pages.

10 Q Okay. And there's handwriting that appears  
11 on the document. Do you recognize the handwriting on  
12 the document?

13 A No.

14 Q It's not your handwriting?

15 A No, it's not my handwriting. I gave a copy  
16 of this to Jim Cottos, I think.

17 Q Did you tell Mr. Cottos, when you gave him  
18 a copy of it, where it came from?

19 A Oh, I think I must have. There was never  
20 any secret about it, absolutely not.

21 Q Did Mr. Schmalzbach tell you that one of  
22 his duties was to make sure that the investigation

1 was conducted in a timely manner, to facilitate  
2 preparing the Secretary for testimony?

3 A I think that I stated here earlier that I  
4 became aware at some point that he was preparing  
5 Secretary Bentsen either for the questioning we were  
6 going to be doing with Secretary Bentsen, and the  
7 questioning the committee -- the committees were  
8 going to be doing. I'm not sure at the beginning of  
9 this process that it was even known that Secretary  
10 Bentsen would testify or when he would testify. I  
11 have no recollection one way or the other.

12 And as for your question about Schmalzbach,  
13 I don't recall having a conversation with him along  
14 those lines. Certainly I knew that he wanted, as  
15 everyone did, the report done before the  
16 investigation, but what you're asking me --

17 Q You just said --

18 A The report done before the hearings, but  
19 what you are asking me is did he say to me  
20 specifically it's got to be done before the hearings  
21 so that I can prep the Secretary, I don't recall any  
22 such conversation with him.

1 Q Was that your understanding, that he wanted  
2 them done before the hearings so he could use the  
3 information --

4 A No. My understanding was they needed to be  
5 done before the hearings. And it was not my decision  
6 that we would try to do them before the hearings. It  
7 was simply everyone, OGE, RTC, Treasury wanted the  
8 report done, the White House wanted the report done  
9 before the hearings. If it was possible to do so and  
10 still have an accurate and complete report.

11 Q But why was it so crucial to have the  
12 investigation done before the hearings?

13 A Well, the Secretary wasn't going to do an  
14 independent inquiry into what Altman had said to the  
15 White House, and what Hanson had said to the White  
16 House and here there is going to be a hearing at  
17 which he is going to be questioned about that or his  
18 people are going to be questioned about that or the  
19 White House is going to testify.

20 Clearly he wanted to have some independent  
21 basis on which to go forward; knowing what the facts  
22 were was important to him. That's a short answer.



1 Knowing what the facts were was important to him.

2 Q And why wasn't Treasury conducting, if you  
3 know, why didn't they conduct the investigation of  
4 the contacts on their own?

5 A Secretary has no staff by which to conduct  
6 an independent inquiry.

7 Q But the department has a DAEO; right?

8 A Well, the DAEO, as far as I know, has never  
9 conducted an investigation of this sort. This was  
10 perfectly suited to what the IG would do. The IG  
11 often conducts special investigations, management  
12 inquiries, administrative reviews at the behest of  
13 the Secretary, whether it's the old boys' network or  
14 Travelgate or anything else. That's what the IG  
15 does.

16 Q But this is pretty unique with the  
17 involvement of two IG offices and the Office of  
18 Government Ethics; right?

19 A Well, there have been joint IG  
20 investigations before. It's pretty unique that you  
21 had RTC under Treasury and a need to interview  
22 witnesses in more than one agency. There were three

1 agencies involved here.

2 I mean, the Secretary didn't have to ask  
3 for any investigation. The Secretary didn't have to  
4 decide that people wouldn't share their transcripts  
5 until the Senate Banking Committee was finished. He  
6 should be applauded for having asked for the inquiry  
7 in the first place.

8 (Recess.)

9 BY MR. O'CALLAGHAN:

10 Q We discussed in some way or the other,  
11 earlier during the deposition, about the transfer of  
12 the transcripts to the White House?

13 A Right.

14 Q And when did that occur?

15 A July 23rd --

16 Q Okay.

17 A -- 1994.

18 Q Were you involved with the delivery or the  
19 decision or the decisionmaking process with regard to  
20 delivery of the transcripts to the White House on the  
21 23rd?

22 A Well, I was contacted by Steve McHale at my

1 home that morning, which was a Saturday. He told me  
2 that Jane Sherburne had asked him for copies of the  
3 transcripts.

4 Q Did he say when she'd asked him?

5 A I took it to be that it was a recent  
6 request. I don't remember what he said about the  
7 time that she had called.

8 Q What time did he call you, you said it was  
9 in the morning?

10 A I think it was the morning, but it could  
11 have been the afternoon. I didn't keep any notes, I  
12 just know it was sometime during the day.

13 Q You were at home, you said; right?

14 A Oh, yes.

15 Q Were you at breakfast, were the kids  
16 running around the kitchen, do you remember?

17 A I don't remember. My impression is that it  
18 was morning or midafternoon. I believe that others  
19 have quite different impressions of what time it was.

20 Q And what's your basis for that?

21 A I've spoken to Bob and I've spoken to  
22 Steve, and I don't think that we agree as to what the

1 time of the call was or even how many calls there  
2 were.

3 Q If you could, just give me the  
4 recollections you have. Now, you said you thought it  
5 was either morning or early afternoon?

6 A That's what I believe.

7 Q Do you recall if you were doing anything  
8 when he called?

9 A I was in the kitchen, but that could be any  
10 time of the day or night. And I recall it being  
11 light outside. That's all I recall.

12 Q Do you know if you or anyone else was -- I  
13 mean, this is all just to help you remember -- were  
14 you preparing any meals or anything?

15 A No. I've searched my memory previously to  
16 try to more accurately recall the time once it became  
17 an issue, but I have no way of recalling the time any  
18 better today than I did six months ago. I just don't  
19 recall the time.

20 Q You never know. I just have to ask.

21 A Okay.

22 Q Do you recall whether he said that he'd

1 received the call from Ms. Sherburne or had a  
2 conversation with Ms. Sherburne regarding the  
3 transcripts that same day or was it the night before?

4 A I don't recall.

5 Q Was it an urgent call, was it a relaxed  
6 call?

7 A Who, from whom?

8 Q McHale to you.

9 A I wouldn't say that it was relaxed. I  
10 wouldn't say that it was urgent. I mean it was a  
11 business call being made by him to my home on a  
12 Saturday. Clearly, normally, we transacted business  
13 Monday through Friday during normal business hours.  
14 So that was a call made on Saturday.

15 Q Okay. What did he -- what did he say to  
16 you during the phone call?

17 A He said either the White House or Jane  
18 Sherburne wanted or would like a copy of the  
19 transcripts.

20 Q And did you respond to that?

21 A I responded negatively.

22 Q What did you say?

1 A I don't recall anything I said.

2 Q You just remember that it was negative?

3 A Absolutely.

4 Q Do you know why you would have responded  
5 negatively to the request?

6 A Well, for one thing, I was not the  
7 policymaker with regard to this decision. Jane  
8 Sherburne had asked the IG's office to produce the  
9 transcripts on the 18th. On the 19th Jim Cottos had  
10 said no. As far as I knew, nothing had changed in  
11 the interim, so there was no reason to think that the  
12 answer would be positive at that point.

13 Q Did you relay to Mr. McHale that you'd told  
14 Mr. Cottos on the 18th about the request?

15 A I don't recall what I said to him. I  
16 really --

17 Q Is it possible, or do you know?

18 A If somebody said I had responded positively  
19 to the request, I would say that is absolutely not  
20 true. All I can tell you is that I responded  
21 negatively. He may have a very good memory for what  
22 I said. I have none. I have said to him months ago

1 that I have no memory of what I said. I just simply  
2 do not have any memory of what I said.

3 Q Okay. When he called you, were you under  
4 the impression that this was a significant event, the  
5 request for the transcripts?

6 A Well, in the history of the world, no. If  
7 you'll permit me some humor.

8 In terms of this case that we were working,  
9 investigation, I understood that it was a request  
10 that the White House, having not gotten a  
11 satisfactory response from the IG's office, was now  
12 taking to Steve McHale, who was representing at that  
13 point, you know, the Secretary, working on behalf of  
14 the Secretary. Insofar as I understood that, I  
15 understood it was significant.

16 Q So you perceived it as kind of the White  
17 House not getting a positive response from the IG and  
18 then perhaps going over his head to the Secretary's  
19 office?

20 A I didn't view it as going to the  
21 Secretary's office at that point and going to the  
22 Secretary at that point, and I didn't view it as

1 going over our heads. I viewed it as a different  
2 avenue, having not gotten success through a direct  
3 request to the IG's office.

4 Q By the 23rd, the general counsel, they had  
5 the transcripts already?

6 A They had the transcripts from the 18th  
7 forward.

8 Q Did the White House know they were in  
9 possession of them?

10 A I have no way of knowing.

11 Q Was the request Mr. McHale made permission  
12 to release transcripts he had in his possession, or  
13 with regard to transcripts he had in his possession,  
14 or transcripts that are in the possession of the IG's  
15 office?

16 A Well, I don't think we really thought about  
17 it that way. It was a question about whether she  
18 would get a copy of the transcripts. He certainly  
19 wasn't going to give her a copy of the transcripts  
20 which were produced by the IG's office unless the IG  
21 consented to that. So whether it was a Xerox copy of  
22 what he had or a Xerox copy of what was sitting in my



1 office, that wasn't the issue.

2 Q He was calling for clearance from the IG's  
3 office?

4 A To give her the -- yeah.

5 Q To give her the transcripts?

6 A Right. To see if we would agree to giving  
7 her the transcripts.

8 Q Okay. And you said you recall that you  
9 responded negatively, but not specifically what you  
10 said?

11 A I don't remember what I said. I think he  
12 has a clearer recollection of what I said than I do.

13 Q After you responded negatively, what  
14 happened?

15 A Nothing for a while.

16 Q Was that the end of the conversation?

17 A Yeah, I mean we had a conversation. I'm  
18 not saying that I didn't give a long explanation for  
19 why my response was negative. I probably did.

20 Q You're a lawyer, right, so you probably  
21 gave a long --

22 A Exactly. You've seen me here, I give

1 explanations. I just can't remember what the  
2 explanation was that I gave. It was a negative  
3 explanation. It was a negative response.

4 Q Did he have -- did he respond to your  
5 negative response?

6 A I'm sure he did. I can't remember.

7 Q Do you recall it?

8 A I can't remember what he said. I can't  
9 remember what he said.

10 Q Has he ever told you?

11 A What he said back to me, no.

12 Q Since then, I guess?

13 A Since then, I've asked do you remember what  
14 I said, and he said -- what has he said to me, that I  
15 responded negatively and that I gave him various  
16 reasons.

17 Q Did he tell you what reasons that you gave  
18 him?

19 A Well, I think one reason was that they were  
20 going to become public soon, why not simply wait.

21 Q Any other reasons?

22 A I can't recall.

- 1 Q You can't recall what he told you?  
2 A Right.  
3 Q When did you talk to him about this?  
4 A I've talked to him about this for  
5 periodically over the -- well, periodically since  
6 August of 1994.  
7 Q When was the most recent time you spoke to  
8 him about this conversation?  
9 A A couple of days ago -- yesterday, the day  
10 before.  
11 Q And you don't recall the other reasons?  
12 A No, that was the reason he gave me two days  
13 ago.  
14 Q Did he give you any others, or was that it?  
15 A Not two days ago. He may have given me  
16 others in the past. I don't recall.  
17 Q Okay. So did you discuss any other matters  
18 during that phone call?  
19 A He may have also told me that I said  
20 something about RTC and raised a concern about what  
21 RTC's position would be.  
22 Q Is that consistent with something you would

- 1 normally do?  
2 A We were doing the investigation with them  
3 jointly. I mean when you say, is the question is  
4 that something I would normally do? I mean I don't  
5 understand the question. You've asked me what has he  
6 tried, what has he said to me in an attempt to  
7 refresh my recollection about what he said. That's  
8 basically your question to me. And my response to  
9 that?  
10 Q My first question was, yeah.  
11 A The only things I recall in his  
12 conversation and mine -- because we've tried, we've  
13 tried to figure out what time of day the  
14 conversations took place. Despite talking to one  
15 another about what time of day, despite talking about  
16 what time of day the conversations took place, we  
17 don't recall. I've spoken to Bob Cesca about how  
18 many conversations there were. Despite talking to  
19 one another face to face, we cannot agree on how many  
20 conversations there were that day.  
21 So that's where it stands.  
22 Q Okay. If I could just walk you through it

1 and you can give me your recollections as best you  
2 can.

3 A Yes, that's fine.

4 Q And any refreshment you've had recently  
5 would be appreciated too.

6 A I understand.

7 Q So you spoke with Mr. McHale, the first  
8 phone call came from Steve McHale on the 23rd?

9 A Right.

10 Q Had you been contacted before the 23rd with  
11 regard to a request by the White House for  
12 transcripts other than -- like on the 22nd, the day  
13 before?

14 A No, I didn't get a request the day before.  
15 I don't recall a request the day before. I got a  
16 request on the 18th which I responded to negatively,  
17 probably on the 19th, after receiving Jim Cottos's  
18 E-mail. Now, it may well be that there was another  
19 request on the 22nd. I don't have any record of that  
20 in paper, and I don't know, I don't have any  
21 independent recollection of it. But it wouldn't  
22 surprise me to find that somebody else has a piece of

1 paper that shows that. I mean, that's the way it  
2 goes. You understand what I'm saying to you.

3 Q You don't recall it and you don't have it  
4 memorialized on paper?

5 A That's exactly right.

6 Q Has anyone told you that there was a  
7 request on the 22nd?

8 A No, no one has said that to me.

9 Q Have you learned that from any source?

10 A No. I only say, because of your question,  
11 I assume that your question, unless it was a mistake,  
12 is based on some evidence that you have now received  
13 from someone else.

14 Q No, I'd rather you not make the assumptions  
15 in the questions.

16 A Well, I can't help it. I'm a lawyer so I  
17 make these assumptions. But very well, I'll follow  
18 that line.

19 Q I appreciate that.

20 There may be information that we haven't  
21 received that you may be in possession of in your  
22 knowledge that may not be directly responsive to the

1 questions.

2 A Okay.

3 Q During the phone call with Mr. McHale, is  
4 there anything else you remember about the phone  
5 call? Did you talk about anything else other than --

6 A No.

7 Q -- the transcripts?

8 A No, I don't recall anything else about the  
9 conversation.

10 Q Okay. And after you spoke with Mr. McHale,  
11 what was the next thing that happened with regard to  
12 the transcripts?

13 A Well, I don't remember whether or not I  
14 called Bob Cesca. I may have called him to tell him  
15 I'd gotten that call from Steve McHale. I may not  
16 have. I just don't recall. I don't recall. I spoke  
17 to Bob that day. I certainly spoke to him after I  
18 got a second call from Steve McHale.

19 Q Okay. After the first call from  
20 Mr. McHale --

21 A Right.

22 Q -- at your home on Saturday, what is the

1 next event that occurred with regard to the  
2 transcripts that you have a recollection of?

3 A The next event that I have a recollection  
4 of is getting another call from Steve McHale.

5 Q And when did that occur?

6 A Sometime the same day. Again, I have no  
7 idea of the time, except that it was later than the  
8 first call.

9 Q Do you recall if there was a long period of  
10 time between the two calls?

11 A I don't.

12 Q Were you surprised to hear back from him  
13 more quickly?

14 A No, no. It wasn't five minutes or 10  
15 minutes, but I have a general impression that it was  
16 some time later, but how much later I have no  
17 recollection of.

18 Q Okay. Was it still light out?

19 A I think it was, but of course we're in the  
20 summer, we were in the middle of the summer -- middle  
21 of the summer, that's right. So, you know, it was  
22 light until very late. But.



1 Q Do you know if you had had dinner yet, or  
2 if the kids had eaten?

3 A No, I don't recall. It's my impression  
4 that it was before dinner, that's generally my  
5 impression, that all of this was settled before  
6 dinner because. And one reason I say that is I think  
7 David Dougherty then walked the transcripts over to  
8 the White House later that afternoon. And that's one  
9 reason why I believe it all occurred sometime before  
10 dinnertime.

11 Q Okay. Where were you when you received the  
12 second call?

13 A I was still at home.

14 Q Were you in the kitchen or --

15 A I have two phones. I had two phones in the  
16 house at that time, one was in the kitchen and one  
17 was in my bedroom, so it was one of those two places.

18 Q Do you remember which one?

19 A I seem to recall it was the kitchen.

20 Q And what was the substance, what was the  
21 substance of that conversation, what did you talk  
22 about?

1 A He said that Cutler had asked the Secretary  
2 to provide the transcripts to the White House, and  
3 the Secretary would like it done if it could be  
4 done. And that's not word for word, that's the gist  
5 of what he said.

6 Q You don't recall if you talked to Mr. Cesca  
7 between the two calls?

8 A It is very likely that I did. I just don't  
9 have any independent recollection of having done so.

10 Q Mr. McHale made the initial call to you in  
11 the morning or early afternoon --

12 A Right.

13 Q -- informing you that the White House would  
14 like copies of the transcripts; correct?

15 A Yeah, I think he used Jane Sherburne's  
16 name.

17 Q And you responded negatively?

18 A Right.

19 Q Did you tell him that you'd get back to him  
20 at that point, or did he say he'd get back to you?

21 A I may have said to him that I would check  
22 with Bob and get back to him. I may have said that

1 because, again, I wasn't making those sorts of  
2 decisions, and so it would not surprise me if someone  
3 had a recollection of my having said that. And if in  
4 fact I did that, that certainly would not surprise  
5 me.

6 Q Did Mr. McHale say he would call you back  
7 or get back to you after the phone call -- I mean  
8 during the phone call, the first phone call?

9 A I know I responded negatively. There's a  
10 possibility that I said to him that I'd speak to Bob  
11 Cesca and get back to him to confirm that it was  
12 negative, but at that point I had no expectation that  
13 I would be getting a second call from Steve saying  
14 that Cutler had asked the Secretary and the Secretary  
15 was now requesting it.

16 So I mean, for Steve to say he'd get back  
17 to me, get back to me about what? I mean he was  
18 making the request. I responded negatively.

19 Q So you weren't expecting a second call from  
20 him?

21 A No.

22 Q Okay. And Mr. McHale called you the second

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1 time to bring it to your attention that Mr. Cutler  
2 had asked the Secretary or told the Secretary that  
3 the White House would like to have copies of the  
4 transcripts, and that the Secretary told Mr. McHale  
5 or someone else that he'd like it for it to be done  
6 if that's possible; is that right?

7 A There was no discussion of who the  
8 Secretary had said this to. It was just -- and the  
9 Secretary would like it to be done if it can be  
10 done. In other words, Steve didn't tell me from whom  
11 he had gotten the message relayed, nor did I ask him,  
12 as I recall. I don't recall asking him.

13 Q So it was the Secretary in the abstract  
14 or --

15 A Well, it was Secretary Bentsen. No, my  
16 point to you is Steve said to me Cutler has spoken to  
17 the Secretary and the Secretary would like the  
18 transcripts to be provided if it can be done. The  
19 import of his statement was, again, that the  
20 Secretary was not going to turn the transcripts over  
21 to the White House unless the Inspector General  
22 agreed. And so Steve was once again calling to see

1 if we would agree.

2 Now, I do not know how the Secretary's  
3 position on this matter was conveyed to Steve. I  
4 have no idea how it was conveyed to Steve.

5 Q Okay. So there was one request made in the  
6 morning?

7 A Or midday.

8 Q Midafternoon and then another one made  
9 later?

10 A That's right.

11 Q What was your reaction to Mr. McHale's  
12 statement during the second telephone call?

13 A I said I'd speak to Bob Cesca, and then I  
14 called Bob Cesca.

15 Q Did you say I'll have to speak to Bob and  
16 get back to you?

17 A Yes.

18 Q And when -- did you talk about anything  
19 else before moving on to the next conversation?

20 A I don't recall talking about anything else.

21 Q Do you know if you talked about anything  
22 else or have you learned --

1 A No, I haven't learned and I don't recall  
2 talking about anything else.

3 Q What did you do next after you hung up?

4 A I tried to reach Bob Cesca.

5 Q Were you successful?

6 A Yes, I was successful.

7 Q Where did you reach him?

8 A I don't have any idea where I reached him.

9 I don't know whether I called his beeper number. I  
10 don't know whether I called the Treasury operator. I  
11 don't recall whether I called him at home. I had one  
12 of three ways of trying to reach him, and I have no  
13 idea which way was successful.

14 Q Okay. And was this immediately after  
15 Mr. McHale's second phone call?

16 A My attempt to reach him was immediately  
17 after. I don't know how long it took before I  
18 reached him.

19 Q Do you recall, when you finally did reach  
20 him, what time of day it was?

21 A No. It was not long after the call from  
22 McHale. It was not long after.

1 Q When you say "not long," can you give an  
2 approximation of how much time?

3 A I don't know, I don't remember how long it  
4 was, but it wasn't hours.

5 Q Within an hour, within two hours?

6 A I think it was within an hour or two  
7 hours. Probably more within an hour. It may have  
8 been longer. You know, it wasn't important to  
9 remember. I mean there was no reason to keep any --

10 Q Just if you could --

11 A I understand, but I'm just trying to  
12 explain that there was no reason to keep track of the  
13 time.

14 Q When you finally got in contact with  
15 Mr. Cesca, was it a call back to you that you got  
16 from him?

17 A I don't recall whether he called me back or  
18 I got him on a call to his house. I don't recall.

19 Q Do you know where he was when he spoke to  
20 you was he at the office or at home?

21 A No, he wasn't at the office. In one of our  
22 discussions about this, I think he mentioned

1 something about being at maybe at a swimming meet,  
2 maybe at church. I mean he seems to have a different  
3 recollection of the times than I do.

4 Q The reference to the swim meet, he was  
5 calling -- it might have been at the swim meet when  
6 you talked to him or coming from the swim meet?

7 A It might be. I don't remember.

8 Q Do you --

9 A No, no, I'm trying to do the best I can but  
10 I just --

11 Q I appreciate it. I'm trying to help you  
12 out, too.

13 A Yeah.

14 Q Were there sounds of people cheering or  
15 anything, or whistles going off?

16 A No, I don't remember anything like that.

17 MR. PORTNOY: Off the record.

18 (Discussion off the record.)

19 BY MR. O'CALLAGHAN:

20 Q So you mentioned either he was at a swim  
21 meet or came back from a swim meet or coming back  
22 from church or --



- 1 A Possibly.
- 2 Q Probably not at church?
- 3 A No, he didn't call me from church, but he's
- 4 fairly religious and attends church regularly.
- 5 Q When you finally spoke with him, was there
- 6 anyone else involved in the conversation?
- 7 A Well, there was a private conversation that
- 8 he and I had. Then together we had a three-way
- 9 conversation with Steve McHale.
- 10 Q Was it a private conversation first before
- 11 that?
- 12 A Yes, absolutely.
- 13 Q And was this the conversation you had after
- 14 the second call from Mr. McHale?
- 15 A Yes.
- 16 Q Was that the only conversation you had
- 17 before the three-way conversation?
- 18 A No. As I've told you, I don't remember
- 19 after the first call from Steve McHale whether I
- 20 spoke to Bob.
- 21 Q Between the second call and the three-way
- 22 call?

- 1 A Between the second call and the three-way
- 2 call there was a private conversation with Bob. That
- 3 I know.
- 4 Q Did you talk to anybody else about the
- 5 transcripts between those two calls?
- 6 A No.
- 7 Q Other than Mr. Cesca, did you have any
- 8 conversations about the transcripts between the first
- 9 call and the second call from Mr. McHale?
- 10 A No.
- 11 Q So the private conversation you had with
- 12 Mr. Cesca, what did you talk about?
- 13 A Well, I say that it was private because I
- 14 want to emphasize the fact that, as counsel to the
- 15 IG, I was giving him legal advice and that was done
- 16 privately without Bob -- excuse me, without Steve
- 17 listening to anything that I was saying. That's why
- 18 I mention that it was private.
- 19 Q And it's just the two of you?
- 20 A Just the two of us. Well, I tried to go
- 21 through this from a legal perspective because, under
- 22 the Inspector General Act, the Inspector General

1 reports to and is under the general supervision of  
2 the Secretary, and here the request was coming from  
3 the Secretary.

4 So then I moved on to those portions of the  
5 Inspector General Act that prohibit the Secretary  
6 from prohibiting or interfering with the Inspector  
7 General's conduct of an investigation. And I thought  
8 and said to Bob, well, Bob, we have these  
9 transcripts. They've been verified. They're sworn  
10 to. We've issued a draft report. As far as we're  
11 concerned, we're planning no more investigative work,  
12 so you can't say that the Secretary is interfering  
13 with our investigation and you can't say that he's  
14 doing anything that prohibits us from completing an  
15 investigation.

16 So from a legal standpoint, there's no  
17 legal basis arising out of the IG Act on which to  
18 object to the transcripts going to the White House.  
19 So that was my legal advice. And that meant then  
20 that it was a policy call and he made the policy call  
21 to agree to give the transcripts to the White House.

22 Q Did you have any kind of conversation like

1 that with Mr. McHale, your recollection here is  
2 pretty clear?

3 A I don't recall -- I don't recall in the  
4 second conversation with Steve what I said in  
5 response to his saying the Secretary would like it to  
6 be done. I may have simply said well, maybe that's a  
7 different matter. I don't recall what I said.

8 From my perspective, I considered it a  
9 different matter once the request was coming from the  
10 Secretary. This was the person who had requested  
11 that the investigation be done.

12 The investigation was concluded. The final  
13 report hadn't been issued, but the transcripts were  
14 all signed and sworn to. It was a different matter.  
15 The transcripts were going to become public within a  
16 week. Cutler was about to testify, I knew, on the  
17 Hill. So, you know, there was no legal basis on  
18 which to say no.

19 Q But the facts were still the same as they  
20 were when you received the first call from  
21 Mr. McHale?

22 A No, there -- oh, between the first -- no,

1 the facts were not the same, because in the first  
2 call the request was coming from the White House, and  
3 in the second call, the request was coming from the  
4 Secretary.

5 Q Okay. What was -- and you gave Mr. Cesca  
6 your advice or your analysis, your legal analysis?

7 A That's right.

8 Q And did you give any other advice to him?

9 A I don't recall giving him any other advice.

10 Q What was his reaction?

11 A It was pretty clear that he was going to  
12 agree to permit the transcripts to go to the White  
13 House.

14 Q Did he seem comfortable with that decision?

15 A I don't think that either one of us was  
16 particularly happy to have the question presented,  
17 but I don't think -- he didn't say anything that  
18 would indicate distress on his part in making that  
19 decision, and he's always taken full responsibility  
20 for it.

21 Q So neither one of you were particularly  
22 happy about having to the question posed to you?

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1 A I think that's safe to say.

2 Q What was the cause of your unhappiness?

3 A Because there was going to be a political  
4 flap about it.

5 Q You foresaw that at the time?

6 A You bet. You better believe I foresaw it  
7 at the time. It got even worse when in the  
8 following -- worse when, in the following week, they  
9 decided they were going to redact the transcripts.

10 If the transcripts hadn't been redacted,  
11 then there wouldn't have been any problem probably,  
12 except a momentarily flurry. But once the  
13 transcripts were redacted, then the fact that you and  
14 I are sitting here was almost inevitable.

15 Q Mr. Cesca is not a lawyer; is that right?

16 A That's correct. However, he's extremely  
17 experienced, having come up from the ranks in IRS,  
18 has a military background, and he's been in  
19 government service for several decades.

20 Q After you gave Mr. Cesca your legal  
21 analysis, did you discuss anything else during the  
22 conversation?

1 A I am certain there was additional  
2 conversation. I cannot recall what it was.

3 Q And he --

4 A I didn't feel it was my place at that point  
5 to make a recommendation one way or another, and I  
6 didn't.

7 Q Okay. And by the time you finished the  
8 conversation, he'd made -- did he make an indication  
9 to you as to what his decision was going to be?

10 A I think that I had the impression that he  
11 would say yes, but at that point, we got on phone  
12 with Steve McHale. He may have told me that he was  
13 going to say yes. I don't think there was any  
14 question about it after he and I finished talking.

15 Q If I could just, you said that you were  
16 aware that there might be some political flak?

17 A Flap.

18 Q Flap, excuse me. As a result of if the  
19 transcripts were turned over at this point in time?

20 A That's right.

21 Q What caused you to draw that conclusion?

22 A My years of experience in Washington. I

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1 mean --

2 Q Any specific concerns you thought that the  
3 transfer --

4 A Well --

5 Q -- would cause?

6 A I thought it would be minimal because the  
7 transcripts were going to be made public within seven  
8 days, and so I thought that, at most, there would be  
9 some question raised about why the White House was  
10 getting the transcripts in advance, and the answer  
11 would be -- and it's a perfectly reasonable answer, I  
12 thought so at the time -- that Cutler was about to  
13 testify before the House about the results of his  
14 investigation and that it would be foolhardy on his  
15 part, absolutely foolhardy, not to seek whatever  
16 information he could to ensure that his testimony was  
17 complete and accurate at the time. So there was a  
18 very good reason to give the transcripts to the White  
19 House.

20 Q To aid them in their investigation?

21 A To ensure that the testimony that he gave  
22 was accurate and complete. They were not



1 interviewing the RTC witnesses. They had spoken to  
2 maybe a couple of the Treasury people, but not all of  
3 them, and we were taking sworn statements. So it was  
4 important to the White House to see what people had  
5 said to ensure that he didn't testify before  
6 Congress, and then find out a day or two later, that  
7 there was something in the transcripts which would  
8 contradict the testimony he gave before the House.

9 Q Is it -- is my understanding correct,  
10 though, that his testimony was with regard to the  
11 investigation that the White House had conducted?

12 A Well, no, I don't think that it was, that I  
13 would view it as being so limited. He was reporting  
14 on what the White House determined the facts to be,  
15 and in making that determination, having available  
16 the sworn testimony of White House witnesses who  
17 answered our questions, the Treasury IG's questions,  
18 would certainly have assisted him in that.

19 Q And the questions -- did the transcripts  
20 become part of the record or part of the White House  
21 investigation?

22 A Well, I know he consulted them in making,

1 in preparing his testimony before Congress. So  
2 insofar as they helped guide him to identify any  
3 discrepancies between what he'd learned in his  
4 inquiry and what we learned in ours, they were  
5 certainly useful in ensuring that the Congress was  
6 fully informed.

7 Q Okay. To stay with the events of July  
8 23rd, after you gave legal advice to Mr. Cesca with  
9 regard to giving the approval to release the  
10 transcripts?

11 A Well, the way -- giving approval to release  
12 the transcripts?

13 Q Isn't that what was being sought?

14 A Yes.

15 Q And could you restate again, did you have a  
16 recollection of any other part of the conversation  
17 you had --

18 A No.

19 Q -- before you spoke to Mr. McHale?

20 A No.

21 Q So next you got in touch with Mr. McHale on  
22 a three-way conversation?

- 1 A Yes, that's what I recall.  
2 Q Same phone line or did you hang up and call  
3 him again?  
4 A No, I didn't have any ability to do a  
5 conference call from my phone. I don't think Bob did  
6 from his.  
7 Q So what did you do?  
8 A I don't know. I don't recall. I may have  
9 called Steve and -- I have no idea how it wound up.  
10 We may have called the Treasury operator and asked  
11 her to patch us in to Steve.  
12 Q So were you on the phone at this time?  
13 A No, we weren't. So it had to be that we  
14 hung up, and either through the Treasury operator or  
15 through Steve, someone at Treasury would have had to  
16 create the three-way conversation.  
17 Q How much time between the one-to-one to the  
18 three-way?  
19 A I don't recall any time. I mean it was the  
20 time it took for us to hang up and to get it done.  
21 There was no other delay.  
22 Q No delay between the calls?
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- 1 A No.  
2 Q Just the physical mechanics of getting  
3 Mr. McHale on the line?  
4 A That's right.  
5 Q When you called for Mr. McHale, you reached  
6 him?  
7 A Yes.  
8 Q And where was he?  
9 A He was at Treasury someplace. I don't know  
10 where in Treasury he was.  
11 Q And what were the discussions that occurred  
12 in that conversation?  
13 A Well, as I recall, it was a brief  
14 conversation in which Steve restated the fact that,  
15 you know, the Secretary would like it to be done, and  
16 Bob agreed. I don't recall anything more than that.  
17 Q Were the terms of the release of the  
18 transcripts discussed?  
19 A I don't have any recollection of that. I'm  
20 not saying it didn't occur. I just have no  
21 recollection of whether or not it occurred.  
22 Q Did you have any input into the terms of

1 the letter that was transmitted with the transcripts?

2 A I didn't see a copy of it until after it  
3 had been signed and delivered.

4 Q Had you discussed with anyone what was  
5 going to be included in it?

6 A I don't recall such a discussion. If Steve  
7 recalls such a discussion, it may well have taken  
8 place. I don't recall it.

9 Q But you don't recall it?

10 A But I don't recall that it didn't take  
11 place. I have no recollection one way or the other.

12 Q Did you -- do you recall giving Mr. Cesca  
13 advice that it might be a good idea to put a  
14 restriction on the use of the transcripts?

15 A It's possible I did, but I don't recall one  
16 way or the other.

17 Q Had you ever expressed advice similar to  
18 that when the transcripts were released to the Office  
19 of General Counsel?

20 A Well, with the general counsel, we had the  
21 restriction that it not be used before the Senate --  
22 that it not be shared among witnesses before the

1 Senate Banking Committee had completed its  
2 depositions.

3 Now, I don't believe at that time we had,  
4 the Senate Banking Committee had concluded its  
5 depositions yet. So I just don't recall the  
6 conversation one way or the other. I think Steve  
7 recalls a conversation, but I don't recall it one way  
8 or the other.

9 Q Okay. Did he tell you he recalls the  
10 conversation?

11 A I think he has said that to me.

12 Q Has he said that to you in the last couple  
13 of weeks?

14 A No.

15 Q When did he tell you that, that he recalled  
16 such a conversation?

17 A Weeks and weeks ago, he may have said  
18 something about that when I asked him a question  
19 about the letter that went over to the White House.

20 Q Okay. And what was the occasion for asking  
21 him a question about the letter?

22 A Whenever a question would pop into my head,

1 I might ask it of him. I mean, we've never had a  
2 long sit-down discussion about what he recalls and  
3 what I recall. It's just kind of casual discussion  
4 where I bring up something and say something about  
5 the letter that you sent over and he'll say yeah, we  
6 talked about that, and I'll say no, I don't recall  
7 it.

8 Q Have you ever learned at any time who  
9 conveyed to Mr. McHale that Mr. Cutler got in touch  
10 with Secretary Bentsen and requested the transcripts?

11 A No, I've never learned that, never asked.

12 Q Did you speak with Mr. Schmalzbach or  
13 Mr. McNamara on the 23rd?

14 A No.

15 Q Did you -- did Mr. Cesca speak with either  
16 one of those two?

17 A Not that I -- I don't believe so. He  
18 didn't speak to them when I was on the phone with  
19 him.

20 Q Do you know if he did or not --

21 A I have no --

22 Q -- outside the phone call?

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1 A Yeah, I have no way of knowing one way or  
2 the other.

3 Q But you haven't learned --

4 A No.

5 Q Did Mr. Cesca talk to Mr. Knight on the  
6 23rd?

7 A I know that at some time that weekend  
8 Mr. Cesca -- Mr. Cesca has said to me in intervening  
9 months that sometime that weekend he spoke to Ed  
10 Knight.

11 Q When did he say he spoke to him?

12 A When did he tell me that he --

13 Q No, when did he say that he spoke with  
14 Mr. Knight.

15 A You mean when did he say the  
16 conversation --

17 Q When the conversation took place, yes.

18 A I don't remember whether he said it was  
19 Saturday night or Sunday.

20 Q Did he tell you what the conversation was  
21 about?

22 A Well, we were talking about the



1 transcripts. I mean that was the point of his having  
2 a conversation with Ed Knight, was about the  
3 transcripts.

4 Q Did he tell you more specifically what he  
5 discussed with Mr. Knight or what the conversation  
6 involved?

7 A He may have said to me more specifically, I  
8 don't recall what he said. He clearly -- Ed Knight  
9 was the executive secretariat, so his conversation  
10 with Ed would have been concerning what the  
11 Secretary's desires were in turning the transcripts  
12 over to the White House, and what Bob's position  
13 was.

14 I mean, that was the only thing we were  
15 discussing that weekend. There was nothing else to  
16 discuss, but the substance of the conversation, he's  
17 never relayed it to me that I recall.

18 Q So as counsel to the IG, he never relayed  
19 to you that weekend or later the contents of the  
20 conversation he had with executive secretariat with  
21 regard to the transcripts?

22 A That he had such a conversation, yes. That

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1 he told me. The substance of the conversation, he  
2 never related to me.

3 Q When did he first tell you that he had the  
4 conversation?

5 A I really don't remember.

6 Q Was it within a week, two weeks, a day, an  
7 hour?

8 A I don't remember when he told me. I just  
9 have no memory of when he told me.

10 Q Within a year, I mean?

11 A Well it's definitely within a year, that we  
12 know. And he and I have not spoken about it, about  
13 his conversation with Ed Knight, I don't think we've  
14 spoken about it since this spring.

15 Q I'm going to walk you through different  
16 time periods and let me know within a certain time  
17 period. You say it's within a year. Was it within  
18 six months of July '94?

19 A I have no reason to think that it was  
20 long-distance after the events in question. It  
21 wasn't months and months after so that I recall being  
22 surprised that such a conversation took place. I

1 believe it was in the time frame of the events that  
2 he told me he had the conversation with Ed Knight.

3 Q Did he tell you in your capacity as counsel  
4 to the IG or was it just a note of interest?

5 A No, I was his counsel and --

6 Q This is someone who is a pretty high figure  
7 and authority in the Department of the Treasury?

8 A Yeah, but Bob is not -- would have had no  
9 reason to go into the substance of a conversation  
10 with me nor did I have any reason to believe that he  
11 would have discussed at any length with Ed Knight  
12 turning the transcripts over to the White House.

13 Q What's that belief based on?

14 A It's based on the fact that when he and I  
15 talked about it on that Saturday, he didn't say  
16 anything like well, I want to speak to the  
17 Secretary's office before I decide to do this. I  
18 want to tell them that I don't think it's a good  
19 idea, or I do think it's a good idea. I mean for  
20 Bob, it was sufficient at that point that the  
21 Secretary had requested it.

22 Q Did he tell you how the conversation with

1 Mr. Knight came about?

2 A I recall his saying that there may have  
3 been a message left on his voice mail at home. He  
4 may have tried to get Ed back but it was too late.  
5 He may have spoken to him the next day, on Sunday.  
6 These are vague recollections I have. I guess the  
7 only point of even mentioning the conversation with  
8 Ed Knight would be to confirm that it was in fact the  
9 Secretary's request that it be done.

10 I'd like to confer with counsel for a  
11 minute.

12 MR. O'CALLAGHAN: Certainly.

13 (Witness conferred with counsel.)

14 THE WITNESS: It is my general impression  
15 that the decision -- I mean it's my recollection that  
16 the decision to agree to allow the Office of the  
17 Secretary to give copies to the White House of the  
18 transcripts was made before Bob spoke to Ed Knight.  
19 And that is why his conversation with Ed Knight and  
20 the contents of the conversation didn't appear to me  
21 to be very significant because a decision had already  
22 been made.

1 BY MR. O'CALLAGHAN:

2 Q And who made the final decision?

3 A That was Bob Cesca.

4 Q Okay. Going back to the three-way

5 conversation with Mr. McHale, I believe -- well,  
6 instead of me restating it, what occurred during the  
7 phone conversation?

8 A We got on the phone, however it was  
9 arranged mechanically, and Steve repeated the request  
10 and Bob acceded to it. That's all I remember about  
11 the conversation.

12 Q Did he repeat the request or did you call  
13 up and say well, we know you want the transcripts and  
14 we agree to do it, or just if you recall --

15 A I really, I don't remember the details. I  
16 don't remember the details of the conversation.

17 Q Okay. Was there a lengthy discussion  
18 before Mr. Cesca told Mr. McHale that he was acceding  
19 to the request?

20 A Not at all. It wasn't a lengthy  
21 discussion.

22 Q Was there any discussion following

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1 Mr. Cesca informing Mr. McHale that he would agree to  
2 let them hand over the transcripts?

3 A It is to my recollection a fairly short --  
4 it was a fairly short conversation.

5 Q Did you contribute to the conversation?

6 A I don't recall what I said during the  
7 conversation.

8 Q Did you participate actively in the  
9 conversation, or were you just on the line?

10 A I don't recall what I said.

11 Q But did you say anything, is the question.

12 A I'm sure I said something, but I have no  
13 recollection of what I said.

14 Q Have you since learned what you said from  
15 anyone else, anyone else's recollection?

16 A No, as a matter of fact, I haven't.

17 Q Okay. And were there any other discussions  
18 other than Mr. Cesca saying it's okay to turn over  
19 the transcripts?

20 A There may have been a discussion about the  
21 letter that Steve would send with the documents. As  
22 I've told you, he has said to me that that was

1 discussed. I don't have any recollection of that  
2 being discussed, but then again, I can't say it  
3 was --

4 MR. PORTNOY: I'm sorry. Is that McHale or  
5 Cesca?

6 THE WITNESS: McHale.

7 BY MR. O'CALLAGHAN:

8 Q Are you aware of any other discussions that  
9 occurred during that phone conversation?

10 A Concerning the transcripts or anything  
11 else, no. It could have occurred. I just have a  
12 very limited memory of what --

13 Q Of that phone call?

14 A -- of what the substantive exchange was,  
15 other than it was agreement that the transcripts  
16 would be given to the White House.

17 Q And what happened next, did you hang up the  
18 phone?

19 A Yeah, I had nothing to do with the  
20 production. That was going to be handled by Steve.  
21 I was at home on a Saturday. He was downtown with a  
22 staff in the office and so he proceeded to handle the

1 production.

2 Q Did this phone call happen before dinner,  
3 or is this getting later?

4 A I believe it was before dinner. I believe  
5 it was before dinner, but others may recollect it  
6 differently.

7 Q Were there any discussions about the  
8 mechanics of the production during the phone  
9 conversation with Mr. McHale and Mr. Cesca?

10 A I don't recall any other discussion. I  
11 mean there was obviously discussion that he was going  
12 to be producing the transcripts that day with his  
13 staff. I had nothing more to do with that.

14 Q Was there a discussion with regard to whose  
15 transcripts were going to be used, the ones in the  
16 possession of the general counsel or --

17 A No, that wasn't considered significant. I  
18 don't recall any such conversation, and I don't think  
19 that there would be any reason to have such a  
20 conversation.

21 Q You stated earlier that David Dougherty  
22 brought --



- 1 A That's what I recall discussing with David.  
2 Q When did you discuss that with David?  
3 A Months ago.  
4 Q What was the context of the conversation?  
5 A I was trying to put a time on when the  
6 telephone conversations occurred and thought that by  
7 speaking to David I might be able to better do that.  
8 Q Did you ever speak to Mr. Knight about his  
9 conversation with Mr. Cesca?  
10 A Absolutely not.  
11 Q What was David Dougherty's position at the  
12 time?  
13 A He was a staff attorney working for  
14 Schmalzbach and McHale.  
15 Q Did you have discussions with anyone  
16 between July 20th and July 25th with regard to the  
17 transmittal letter that was sent with the  
18 transcripts?  
19 A I may have. I don't have any independent  
20 recollection. And I hope you said July 23rd. Did  
21 you say July 20th or July 23rd?  
22 Q July 20th and July 25th.
- 

- 1 A Well, on July 20th -- there was no  
2 discussion of any transmittal letter on the 20th, the  
3 21st or the 22nd because there was no agreement to  
4 transmit anything to the White House on those three  
5 days. The first time there was an agreement to  
6 transmit the depositions was on the 23rd.  
7 As I've told you, Steve McHale has said to  
8 me that we had a conversation about the transmittal  
9 letter. I have no recollection of that one way or  
10 the other. I know I saw a copy of the letter after  
11 it was signed and the transcripts had been  
12 submitted. And I remember being pleased that such a  
13 letter had accompanied the transcripts.  
14 Q Have you heard that there were drafts  
15 written of the letter before the 23rd?  
16 A No. I certainly have not heard that.  
17 Q When did Mr. Cutler make the request to  
18 Mr. Bentsen for the transcripts?  
19 A I have no idea.  
20 Q Have you ever heard?  
21 A I've read a newspaper article in which  
22 Mr. Cutler is quoted as having said there was always

1 an arrangement to produce the transcripts.

2 MR. PORTNOY: Just for the record, I'm not  
3 sure that the witness has testified that she knows  
4 whether Mr. Cutler and Mr. Bentsen actually spoke.

5 THE WITNESS: I don't know whether or not  
6 they actually ever spoke.

7 BY MR. O'CALLAGHAN:

8 Q But you were told they did?

9 A Yes.

10 Q By Mr. McHale?

11 A That's right.

12 Q Who was working for the Secretary at the  
13 time?

14 A Yes.

15 Q Okay. Other than what you've read in the  
16 paper, have you ever heard that, have you ever heard  
17 when Mr. Cutler first spoke to Secretary Bentsen with  
18 regard to the transcripts?

19 A No, nor do I necessarily credit what  
20 appeared in the paper.

21 Q I'd like to show you a document Bates  
22 stamped 6877. It's a one-page document on Department

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1 of Treasury letterhead dated July 23rd, 1994.

2 A That's the letter that Steve McHale sent to  
3 Jane Sherburne concerning transfer of the  
4 transcripts.

5 Q You stated earlier when you first saw this,  
6 you said you were pleased to see that it had been  
7 included with the transcripts?

8 A That's right.

9 Q Does that indicate to you that you didn't  
10 know it was going to be included with it when you  
11 talked to Mr. McHale?

12 A I don't have any recollection about it one  
13 way or the other.

14 Q Were you pleasantly surprised or just  
15 pleased when you saw it, just to get an idea of what  
16 your reaction was when you first saw it?

17 A I've always been pleased that it went with  
18 the transcripts.

19 Q Does that indicate that you didn't know it  
20 was going to go with them?

21 A I don't have any recollection of having  
22 discussed the letter at the time.

1 Q Okay. And when did you first see the  
2 letter?

3 A Sometime after the 23rd of July.

4 Q Do you have a more specific recollection of  
5 when you saw it?

6 A No, I do not.

7 Q How was it brought to your attention?

8 A Well, that's a good point. Steve may have  
9 said here's the letter that went with the  
10 transcripts. I don't know.

11 Q Were you faxed a copy of it soon after it  
12 was sent out or --

13 A I don't think they faxed things to me of  
14 this sort. I was too close to them physically.  
15 Normally we'd run up or down the stairs.

16 Q Do you recall whether you received it that  
17 week, within a week's time?

18 A Yes, I believe I got it right away.

19 Q Why do you believe you got it right away?

20 A I just have a sense that I've seen it  
21 before. I mean I just know that I saw it shortly  
22 after the events in question.

1 Q This is something that would have been of  
2 great interest to you at the time; is that right?

3 A Well, it's something that, as a matter of  
4 course, Steve would have made certain I got a copy  
5 of. It's certainly appropriate that a letter of this  
6 sort went, and I have always been grateful that Steve  
7 wrote such a letter.

8 Q And why have you been grateful that he  
9 wrote such a letter?

10 A Because it was appropriate to do so.

11 Q Why don't we take a five-minute break.

12 (Recess.)

13 (The reporter read the record as requested.)

14 BY MR. O'CALLAGHAN:

15 Q Again I'd like you refer to 6877.

16 A Okay.

17 Q Okay. And the second paragraph reads "as  
18 we discussed, these transcripts are being provided to  
19 you solely to assist you in the preparation for  
20 Mr. Cutler's testimony before the House and Senate  
21 Banking Committee hearings. You've agreed that the  
22 transcripts we are providing to you with this letter

1 will not be disclosed publicly or shown to  
2 individuals (other than Mr. Cutler) who may be called  
3 as witnesses by either committee until such time as  
4 we advise you that this restriction is no longer  
5 necessary. Similarly, you have agreed not to  
6 disclose these transcripts to counsel for any such  
7 individuals."

8 The terms that are described in the  
9 paragraph I just read, the section of the paragraph I  
10 just read, do you have any knowledge as to whether  
11 these terms were ever violated by the White House?

12 A No.

13 Q Have you ever been told that they were?

14 A No. Mr. Cottos wrote me an E-mail at one  
15 point in which he made some reference to the terms  
16 being violated. That was news to me. I called him  
17 up and asked him what his basis for making that  
18 statement was.

19 Q What did he say?

20 A He just thought he'd read something and he  
21 just thought he'd heard something so I wrote him back  
22 an E-mail.

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1 Q Did he give you more specifics than just  
2 saying he heard something or read something?

3 A No. That's what I recall the nature of the  
4 conversation was. No specifics whatsoever.

5 Q Did you have any other conversations with  
6 anyone where they told you that they had heard that  
7 the agreement had been violated?

8 A No, to the contrary. When we sent Bond a  
9 letter in October of '94 -- and I say "we," because I  
10 helped draft portions of it -- it was, in fact I  
11 think, it was made a part of the first Senate  
12 hearing, part of the Secretary -- part of Secretary  
13 Bentsen's submission to the Committee. We  
14 specifically said that the terms of the agreement had  
15 been adhered to. So I've never had any basis for  
16 thinking that they weren't.

17 Q Have you heard since October '94 that the  
18 terms were violated?

19 A No, I've never heard that they were  
20 violated. I've read newspaper articles and in fact,  
21 D'Amato's testimony when, I think it was Bentsen was  
22 testifying, you know, he expressed concern that



1 Altman and Ickes had shared copies of their  
2 transcripts or had one another's transcripts,  
3 something along those lines. But I have no reason to  
4 believe that that occurred as a result of anything  
5 the White House did.

6 Q Did you have any discussions with  
7 Ms. Sherburne or anyone at the White House with how  
8 the transcripts were utilized or --

9 A How they were utilized?

10 Q What use they were put to.

11 A No --

12 Q Did you have --

13 A -- not that I recall. I had conversations  
14 with her about the, I think it was the August 1st  
15 letter that she sent that Cutler sent up to the Hill,  
16 concerning why the transcripts were going up there --  
17 why the transcripts had been given to his office.

18 Q Do you recall --

19 A You know, the letter that I'm talking  
20 about, I think it's an August 1st or August 3rd  
21 letter.

22 Q To Senator Riegle?

1 A Yes.

2 Q You had a discussion about that letter?

3 A Yes.

4 Q What was the discussion?

5 A She sent me a copy of it in advance. I  
6 looked at it in advance.

7 Q And did you have any reaction to it?

8 A I suggested some changes.

9 Q What changes did you suggest?

10 A I don't remember what they were. There may  
11 have been something in there about having an  
12 arrangement with us to provide the transcripts in  
13 advance.

14 Q Did you take any notes of that conversation  
15 or any changes you might have suggested?

16 A Well, I approved the letter as it finally  
17 went out which makes to reference to any agreement to  
18 provide them with transcripts in advance.

19 Q Okay. When did you receive the draft that  
20 contained a reference to the provision, the agreement  
21 to provide transcripts?

22 A Well, shortly before the letter was issued.

1 Q Was it the same day, a couple days before,  
2 do you recall?

3 A I think it was the same day.

4 Q Do you recall what the specific reference  
5 was?

6 A No.

7 Q Why did you recommend it be taken out?

8 A Because to the best of my knowledge, there  
9 was no arrangement in advance for them to get copies  
10 of the transcripts.

11 Q Did you bring the subject up with  
12 Ms. Sherburne orally?

13 A Yes.

14 Q What were the subjects of the discussion?

15 A I said --

16 Q What did you say to her?

17 A I said that this is not my recollection,  
18 Jane. It was not an agreement as far as I know.  
19 That is the gist of what I said.

20 Q What did she say to you?

21 A Well, she agreed to take it out.

22 Q Did she say her recollection was different?

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1 A Not that I recall.

2 Q Did she tell you what the basis of her  
3 including that statement in the letter was?

4 A I think that it went back to that July 5th  
5 meeting at which people had different perceptions of  
6 what had been agreed to.

7 Q But did you tell her it was your  
8 understanding that there hadn't been an agreement  
9 that was reached --

10 A That's right.

11 Q -- in the 5th meeting?

12 A That's right. I don't think I referred  
13 back to the 5th. I am saying to you that I believe  
14 that, if she had that impression, it may have been  
15 that she had a different impression based on the  
16 meeting of the 5th.

17 Q Did anything happen in that meeting on the  
18 5th that would have given her the impression that  
19 you'd reached an agreement with the White House to  
20 provide transcripts?

21 A As I said to you very early on, there were  
22 four of us at that meeting, and I am not at all

1 certain that we all had the same perception of what  
2 occurred at that meeting.

3 Q But was there anything specific, any --

4 A We talked about giving the transcripts. It  
5 was my impression that the discussion was simply put  
6 off into the future. It may well have been her  
7 impression that we had reached an agreement to give  
8 them the transcripts at some time in the future, and  
9 it was simply putting off the date of when that would  
10 occur as opposed to putting off the decision itself.

11 Q So you said before there were four women at  
12 the meeting; right?

13 A Yes.

14 Q Four people. It was --

15 A One of those rare events when it was all  
16 women.

17 Q Jane Sherburne?

18 A Right.

19 Q Sheila Cheston?

20 A Right.

21 Q Pat Black?

22 A Right.

1 Q And Francine Kerner, yourself?

2 A That's right.

3 Q Pat Black was against providing  
4 transcripts; correct?

5 A She was not going to reach any agreement  
6 that the transcripts be given.

7 Q Did she voice an opinion that she didn't  
8 want them to be given?

9 A Well, I don't know how positive she was  
10 about that. She certainly was negative about it.  
11 Whether she said under no circumstances, at no time,  
12 I don't have a recollection of her speaking that way,  
13 but she was negative about the idea.

14 Q Did she indicate that she might be open to  
15 the possibility later of giving the transcripts?

16 A I don't think it was an absolute no on her  
17 part.

18 Q And what was your perception of the  
19 meeting?

20 A My perception was let's put off the  
21 decision, we'll get to that, we'll get to that in the  
22 future.

1 Q And so you said neither yea nor nay?

2 A Right.

3 Q And Ms. Sherburne was in favor of having  
4 the transcripts turned over?

5 A Well, yes.

6 Q And so was Ms. Cheston?

7 A Sure.

8 Q Ms. Cheston and Ms. Sherburne were  
9 representing the same client; is that right?

10 A That's right.

11 Q And I guess the question still remains, was  
12 there anything in that meeting that would give  
13 Ms. Sherburne the impression that an agreement had  
14 been reached?

15 A You are asking me to speculate on what was  
16 in her mind, and I've just explained that, from her  
17 perspective, it may be that she interpreted that to  
18 be that she would get the transcripts at some time in  
19 the future. It was just a question of when.

20 It was my perception at the end of the  
21 meeting -- and I'm speculating that that was what may  
22 have been her perception -- it was my perception at

1 the end of the meeting that we hadn't decided one way  
2 or the other whether the transcripts would go to the  
3 White House.

4 Q Did you ever have a conversation with  
5 Ms. Sherburne or Ms. Cheston or anyone in the White  
6 House counsel's office before July 23rd when you said  
7 that the transcripts would be given to the White  
8 House?

9 A Not that I recall. I know that on the  
10 19th, in all likelihood, I told her no.

11 Q So on the 5th, they were told no; correct?

12 A They were told it was -- it would be put in  
13 abeyance.

14 Q No at that time; right?

15 A Well, you are saying no at that time and  
16 I'm saying that no decision was made at that time,  
17 which is different.

18 Q And the next request that you're aware of  
19 came on the 18th; is that correct?

20 A That's correct.

21 Q And on the 19th you told them no; is that  
22 correct?



1 A Based on what Jim Cottos wrote to me on the  
2 19th.

3 Q You said no?

4 A I have no independent recollection, but I  
5 have no reason to think that I didn't convey the  
6 message back to Jane Sherburne. It certainly would  
7 have been my practice.

8 Q After the 18th, the next request came on  
9 the 23rd; is that correct?

10 A That's correct, to the best of my  
11 knowledge.

12 Q The 23rd, the first request that you're  
13 aware of came from Mr. McHale to you; is that  
14 correct? From Ms. Sherburne to Mr. McHale, excuse  
15 me.

16 A Yes, to me.

17 Q And you said no at that point on the first  
18 call?

19 A I responded negatively. The reason why I  
20 phrase it that way is I'm not sure whether I said no,  
21 or I said I think the answer will be no and I have to  
22 talk to Bob. It was a negative response.

1 Q Then the next thing that happened is  
2 Mr. McHale called you?

3 A Right.

4 Q And told you that he had been informed that  
5 Mr. Cutler called Mr. Bentsen and that Mr. Bentsen  
6 would like to have the transcripts given to the White  
7 House if it was okay?

8 A He didn't tell me he'd been informed. For  
9 all I know he was present at the conversation. He  
10 said Cutler has spoken to Secretary Bentsen,  
11 Mr. Cutler has spoken to Mr. Bentsen. Mr. Bentsen,  
12 Secretary Bentsen, would like the transcripts to go  
13 to the White House if it can be done, leaving open  
14 the option for the IG to say no.

15 Q Did Ms. Sherburne bring up any objections  
16 that an agreement was being violated on the 23rd  
17 when -- do you know if she raised any objection to  
18 initially not receiving the transcripts on the 23rd?

19 A You mean did she -- I don't understand your  
20 question.

21 Q I'm trying to figure out what  
22 Ms. Sherburne's basis was for thinking there was an

1 agreement when she wrote the August 3rd letter, if  
2 there hadn't been an agreement and they had been  
3 rebuffed at every time until Mr. Cutler had to make a  
4 request to Secretary Bentsen, what the basis for her  
5 putting in the statement that there was an agreement  
6 for them receiving the transcripts or an  
7 arrangement. And I'm just walking you through to see  
8 if at any time an arrangement had been reached or  
9 referenced --

10 A Not to my knowledge.

11 Q Up to the 23rd?

12 A No, except that it was the decision was put  
13 in abeyance and it's possible that on the 5th she was  
14 under the impression that they would get it at some  
15 time in the future, though a specific time had not  
16 been determined.

17 That's the only basis that I would know of  
18 for her to believe that an arrangement had been made,  
19 unless there were other conversations that I'm not  
20 aware of.

21 Q Have you been told that there are other  
22 conversations that took place?

1 A Well, I read a letter in The Washington  
2 Times -- not a letter. An article in The Washington  
3 Times in which Cutler was quoted as saying that he  
4 always had an agreement with the Secretary that the  
5 transcripts would be provided. That was news to me.

6 Q Have you ever heard anyone refute that  
7 statement?

8 A I haven't asked anyone to refute it.

9 Q Has anyone offered to refute it to you?

10 A No, I haven't discussed it with anyone  
11 to -- well, I did discuss it with Howard Schloss, as  
12 a matter of fact.

13 Q Who is Howard Schloss?

14 A He's the assistant secretary for  
15 legislative affairs.

16 Q And what was the discussion with Howard  
17 Schloss?

18 A We both expressed amazement that Cutler  
19 said such a thing.

20 Q Why were you amazed?

21 A It was news to me. It was news to him.

22 Q Have you discussed it with anyone else like

1 Mr. McHale or Mr. Schmalzbach, out of curiosity?

2 A I don't know that Cutler made such a -- no,  
3 I haven't discussed.

4 Q I'm just asking if you discussed what was  
5 written in the article.

6 A No, I understand. No, I have it -- I  
7 discussed it with Howard Schloss. I had a reason to  
8 discuss it with Howard Schloss.

9 Q What was the reason you had to discuss it  
10 with Howard Schloss?

11 A Because at that point in time the reporter  
12 had asked me several questions, and so I was closely  
13 following everything he wrote.

14 Q And what was the purpose for talking to  
15 Mr. Schloss?

16 A Mr. Schloss is the assistant secretary for  
17 public affairs.

18 Q Public affairs? I thought you said  
19 legislation?

20 A I made a mistake. I did say that and I  
21 apologize. He's the assistant secretary for public  
22 affairs. And naturally when I got a phone call from

1 a reporter about this, it was my responsibility and  
2 obligation to consult him, and I did so.

3 Q Who was the reporter that contacted you?

4 A Dick Kyle. He's the reporter for whom  
5 there's a reference in my papers.

6 Q How many discussions did you have with  
7 Mr. Kyle?

8 A I can't recall --

9 Q More than one?

10 A -- there were several. Oh, yes, there were  
11 several.

12 Q And when did they occur, over what time  
13 period?

14 A After April of '95, around the time the  
15 articles came out, whenever that was.

16 Q What were the contents of the discussion  
17 with Mr. Kyle?

18 A Well, I really think we're getting far  
19 afield here. I mean --

20 Q Did you have any discussion about the  
21 transmittal of the transcripts?

22 A There may have been some, but I don't

1 really recall. There may have been some. He was  
2 interested in my reporting chain, so I sent him a  
3 copy of the MOU that I had proposed to Valerie Lau  
4 shortly after she came on board.

5 Q When did you propose the MOU, when did that  
6 come about?

7 A Well, as I told you, I had raised it first  
8 with Bob Cesca.

9 Q I recall that, yes.

10 A And then certainly in August of '94 I sent  
11 a fax to Valerie Lau, who at that point was the IG  
12 designate, telling her that I had, that I myself had  
13 gone to the general counsel's office now and was  
14 trying to lay the groundwork for an MOU.

15 Q Going back to the August 3rd letter that  
16 Ms. Sherburne prepared, I believe that went to  
17 Mr. Riegle, Senator Riegle?

18 A Yes.

19 Q Did you have discussions with anyone else  
20 about the letter other than Ms. Sherburne?

21 A No.

22 Q Did you have any discussion with Ms. Black

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1 about it?

2 A I don't think so. I don't recall.

3 Q Do you recall whether Ms. Black had any  
4 objections to any language in the letter --

5 A No, I don't recall --

6 Q -- that was brought to your attention?

7 A I don't recall having any discussions with  
8 her about the letter. I may well have sent her a  
9 copy of it, faxed her a copy of it, but I don't  
10 remember having any discussions with her or faxing  
11 her a copy of it. I just don't recall. It's so  
12 hard. I feel I should qualify a lot of what I say  
13 when I don't have a discrete recollection, but there  
14 is a possibility that maybe the events are other than  
15 as I recollect them.

16 Q In reference to Ms. Black, did you consider  
17 her to be an equal counterpart at the Resolution  
18 Trust Corporation?

19 A She was a counsel to an Inspector General.

20 Q How about with respect to an investigation,  
21 did she have a similar role that you'd had?

22 A She was much more tied up with the Rose Law



1 Firm review and the billings that the Rose Law Firm  
2 had submitted. So her full attention was not  
3 directed to this matter the way mine was.

4 Q During July of 1994, how many times a day  
5 or week did you have discussions or contact with  
6 Ms. Black regarding the investigation?

7 A I can't recall. Whenever there was a need  
8 to converse, we conversed.

9 Q Did you discuss about scheduling the  
10 witnesses, was she involved in that?

11 A There's one E-mail in which -- that makes a  
12 reference to the fact that she was going to call Jane  
13 Sherburne to help move the scheduling along, but I  
14 think after that point, I was primarily the one who  
15 handled the scheduling of witnesses.

16 Q You had more contact with Ms. Sherburne and  
17 also people at general counsel's office; is that fair  
18 to say?

19 A Well, Pat Black would have virtually no  
20 contact with the GC people who were handling this for  
21 the Secretary. There would have been no need to. On  
22 the other hand, I had no contact with Ellen Kulka,

1 and Ms. Black took it upon herself to call Ms. Kulka  
2 and discuss redactions. So we were each dealing with  
3 the general counsel's people within our respective  
4 agencies.

5 Q But the people in general counsel at her  
6 agency weren't a subject or a fact witness of the  
7 investigation; is that right?

8 A Well, the people I was dealing with in the  
9 general counsel's office weren't either.

10 Q Okay. But there were people in the general  
11 counsel's office of Treasury who were subjects of the  
12 investigation, also fact witnesses; isn't that  
13 correct?

14 A Well, I don't really know who you expected  
15 to handle the work for the Secretary in this regard.  
16 When the general counsel is the subject of some  
17 review, the Secretary has to turn to someone. It's  
18 not every day of the week that that occurs, but when  
19 it does occur, he has to turn to someone.

20 Q Okay. With regard to your relationship  
21 with Ms. Black, or actually with the RTC IG's office,  
22 who was your main point of contact over there?

1 A Pat Black.

2 Q Did you deal with anyone else? Did you  
3 deal with Clark Blight?

4 A I certainly did at certain points in time.  
5 And I was over there towards the end of last week, I  
6 was over there for two full days. I spoke to Jack  
7 Adair, I spoke to the secretaries. I mean we had two  
8 meetings that week that were full day meetings and so  
9 I was over in their offices for the entire day both  
10 days that final week. That would be the week of the  
11 25th of July.

12 Q Prior to the release of the transcripts to  
13 the White House -- actually let's start with prior to  
14 release of the transcripts to the general counsel's  
15 office. Had anyone at the RTC relayed to you that  
16 there was confidential information contained in the  
17 transcripts?

18 A Absolutely not.

19 Q Did you have any understanding that there  
20 was, independent of their representation of that?

21 A They didn't make such a representation. I  
22 read the transcripts myself. There was nothing in

1 there that wasn't already publicly known. Redacting  
2 those transcripts was ludicrous.

3 Q What's the basis for your assertion that  
4 the redactions were ludicrous?

5 A There was no good basis on which to make  
6 any of those redactions. Ellen Kulka's point, which  
7 she raised the week of the 25th at Pat Black's  
8 request, was that somehow she wouldn't be able to  
9 protect information in the RTC files if she  
10 acknowledged -- if RTC acknowledged that certain  
11 facts contained in the transcripts were in fact  
12 true.

13 I want to go back over this point because  
14 it's very important to my thinking about the events  
15 in issue.

16 At the very beginning we were doing a  
17 management inquiry. It was supposed to be made  
18 public. The transcripts were supposed to be made  
19 public. The investigators were not supposed to be  
20 delving into any aspects of the investigation that  
21 could not be made public.

22 When I read the transcripts --

1 Q Was that an instruction that was  
2 specifically given to them?

3 A That was my understanding.

4 Q Did anyone ever give that to them?

5 A As you recall, Jim Cottos sent me an E-mail  
6 early on, telling me that he didn't want me directly  
7 speaking to the investigators.

8 Q The question is, do you know if he did  
9 that --

10 A I don't know if he did that --

11 Q -- or if anyone did that?

12 A -- it was certainly my understanding that  
13 that was done.

14 Q Where did you get that understanding from?

15 A From speaking to Jim. That was the whole  
16 basis on which we were going forward, to have  
17 transcripts that would be publicly available, that  
18 could be made public.

19 Q What were the subjects of the interviews  
20 that were going on, weren't the interviews going into  
21 the contacts between White House and Treasury people  
22 about information that was considered confidential?

1 A Not -- at that point -- look, you are going  
2 to have public hearings about the very matters in  
3 question. Jean Hanson was going to be asked, as was  
4 Roger Altman, what information they conveyed to the  
5 White House and at what point.

6 Let me give you an example. When we got  
7 over there to talk about the redactions, I think it  
8 was on the 26th of July, one of the first things RTC  
9 said they wanted to redact was the fact that the  
10 President and Mrs. Clinton had been mentioned as  
11 witnesses in a criminal referral. Now can you  
12 imagine anything more absurd. We had just spent the  
13 last month doing an inquiry that involved whether  
14 information was given to the White House that would  
15 somehow tip them off and now we were being told that  
16 RTC didn't want to confirm the fact that they were  
17 mentioned as witnesses in the criminal referral.

18 There were going to be hearings that week,  
19 starting that week, that directly dealt with the fact  
20 that the Clintons had been mentioned in the criminal  
21 referral, and yet RTC was saying they didn't want to  
22 confirm that fact. We might as well have packed up

1 shop and gone home.

2 The information that was in that, in those  
3 transcripts was general information that had been  
4 widely known. Jim Guy Tucker, the fact that he was a  
5 witness, reported in the media. Peacock reported in  
6 the media. The fact that McDougal would raise the  
7 double jeopardy defense, and some in RTC thought he  
8 might have a basis for doing that, reported in the  
9 media. And the fact that the Clintons were mentioned  
10 as witnesses, reported in the media.

11 On August 4th, one of the things that  
12 Senator Bond has raised in a letter that he sent, I  
13 think to Riegle and D'Amato, and in newspaper  
14 articles in which he's been quoted is the fact that  
15 one of the things that was redacted involved the  
16 position of RTC on the statute of limitations. The  
17 professional liability section wrote a legal opinion  
18 on whether or not the statute of limitations might  
19 bar some of the actions.

20 August 4th, 1994, Congressman Leach made  
21 comments about that very matter in The Washington  
22 Post. There was nothing in those transcripts that is

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1 a matter of policy, given the purpose of our inquiry  
2 which was to make public what had been shared with  
3 the White House and the reasons for doing so, there  
4 was nothing in those transcripts that should not have  
5 been made public. And certainly no hint that anyone  
6 at RTC thought differently until the 26th of July.

7 Q Okay. Did RTC -- did you ever have  
8 discussions with people at RTC about the information  
9 you said that was in the media, whether they had a  
10 problem with that being released because they hadn't  
11 confirmed the fact that those things had happened or  
12 those facts were true?

13 A What difference did that make? I had a  
14 conversation --

15 Q If you could answer the question.

16 A No, I'm explaining to you.

17 Q If you could answer the question and then  
18 you can explain.

19 A Not until July 26th when I had a  
20 conversation with Ellen Kulka in the presence of Pat  
21 Black and both IGs. And Ellen Kulka said well, it's  
22 important whether or not we confirmed it and I said



1 why Ms. Kulka, why is that important. Well, we won't  
2 be able to assert privileges.

3 As a lawyer, I totally disagree with her.

4 Nothing I have heard makes me subscribe to her  
5 position one iota, one iota. The fact that  
6 Congressman Leach didn't think it meant anything to  
7 refer to the same material is proof that there was  
8 nothing confidential, nothing whatever confidential  
9 in those transcripts that couldn't have seen the  
10 light of day, and that shouldn't have seen the light  
11 of day.

12 Q Did the RTC express concern that the  
13 unredacted transcripts had been produced to the White  
14 House on the 23rd?

15 A There was no question about redaction or  
16 unredaction until after the transcripts had gone to  
17 the White House. And frankly, I've often wondered  
18 whether the question of redacting the transcripts  
19 wasn't payback for the fact that RTC wasn't  
20 consulted.

21 Q Have you ever been told that?

22 A It's always just been speculation on my

1 part.

2 At the time that Ellen Kulka said that  
3 things needed to be redacted, she hadn't read any  
4 transcript except her own.

5 Q Had she been told the contents of other  
6 transcripts, do you know?

7 A I have no idea what she was told, but you  
8 know, to be redacting the fact that there were nine  
9 criminal referrals when it had been reported in the  
10 media for months.

11 So going back to the day of the 23rd, on  
12 that date, there was no information that was given to  
13 the White House in those transcripts that the White  
14 House was not already aware of because of  
15 conversations they had previously had with Treasury  
16 employees, or because of articles that had been  
17 published in the media.

18 Q Treasury employees, you are talking about  
19 the conversations that were the subject of the  
20 investigation?

21 A That's correct.

22 Q Do you recall whether Ms. Black expressed

1 concern to you about the August 3rd letter to  
2 Riegle -- and this is just to help you refresh your  
3 recollection -- concerns she had that the letter made  
4 representation that there's a quid pro quo, that if  
5 the RTC and Treasury IG provided transcripts, then  
6 the White House would provide documents and make  
7 witnesses available?

8 A Well, I think that's the same matter that I  
9 discussed with you earlier. I didn't recall Pat  
10 Black saying that, but it may well be that she saw it  
11 and that she raised the same objection I had.

12 Q So that's a similar objection to the one  
13 that you raised?

14 A Absolutely.

15 Q And that's the type of -- you said there  
16 was an agreement, we didn't talk about specifics of  
17 what the --

18 A I didn't recall what the language said. I  
19 didn't keep a copy of what the original draft letter  
20 said. I remember it as an agreement. It may have  
21 just said quid pro quo. She may have a copy of the  
22 earlier draft. I didn't keep one.

1 Q Do you know -- have you ever learned  
2 whether any White House witnesses altered their  
3 testimony as a result of their being able to review  
4 the copies of the transcripts?

5 A Well, I don't know what you -- number one,  
6 the answer is no. Number two, "altered their  
7 testimony" has a negative connotation. I am a firm  
8 believer that people should examine documentation in  
9 order to refresh their recollection. And I don't  
10 know whether or not that was done by anyone.

11 Q Do you know if anyone altered their  
12 testimony with reference to changing their testimony  
13 to their being able to review the transcripts?

14 A I don't know whether anyone refreshed their  
15 recollection and then changed their testimony, no, I  
16 don't know.

17 Q Do you know if anyone's recollection was  
18 refreshed with the transcripts?

19 A I have no way of knowing. I certainly have  
20 no reason to believe that the letter in which Steve  
21 set forth certain conditions was ever violated. And  
22 I know that in the August 3rd letter that Cutler

1 sent, he represented that it had been adhered to, and  
2 that he's always taken the position that it had been  
3 adhered to.

4 Q Do you have any knowledge whether the  
5 summaries that were prepared by the Office of General  
6 Counsel were transmitted over to the White House at  
7 any time?

8 A No.

9 Q Do you know whether anyone at the  
10 Resolution Trust Corporation ever reviewed the  
11 summaries?

12 A No. I don't know how they would have  
13 gotten them. They may have gotten them from me, if  
14 they reviewed them. I don't recall ever sending them  
15 anyplace else.

16 Q You are referring to the RTC?

17 A Yes.

18 Q You don't recall --

19 A Sending a copy to them, I may have.

20 Q To anyone or --

21 A Well, I wasn't sending them anyplace other  
22 than -- well, first of all, I have no recollection of

1 sending them anywhere. If I sent them to the RTC,  
2 that would have been perfectly appropriate to do so.

3 I mean again, I'm just assuming from the  
4 fact that you asked the question that you have reason  
5 to believe that was done. A mistake on my part for  
6 which I apologize.

7 Q I'd like to make a quick backtrack and I'll  
8 leave this time period quickly, but earlier we  
9 referred to draft reports that were -- the draft  
10 report chronology that was prepared for the  
11 investigation.

12 A Who prepared?

13 Q That was prepared by the IG's offices.

14 A That's correct.

15 Q And we also discussed that general  
16 counsel's office, members of the general counsel's  
17 office had presented you with 2-1/2 pages of  
18 suggested edits?

19 A Right.

20 Q And you mentioned that you had referred to  
21 that document during a work session on the draft  
22 report; is that correct?

1       A    That's right.  
2       Q    Were members of the RTC IG's office at that  
3 work session?  
4       A    Absolutely.  
5       Q    It included everybody from the RTC --  
6       A    Yes, and people walked in and out. I mean,  
7 but it was at RTC offices and we were going through  
8 the draft point by point. I don't know if Pat was  
9 there. She kept going in and out to deal with the  
10 redactions.  
11      Q    Was Clark Blight there?  
12      A    I don't know whether he was in the room. I  
13 know that Jack Adair and Bob Cesca sat there. I know  
14 that I was there. I know that Jim Cottos was there.  
15 The final draft, everybody looked at the final draft.  
16      Q    How about Mr. Switzer, was he there?  
17      A    I don't recall.  
18      Q    Do you recall who was in the room when you  
19 said I've got these suggestions from GC?  
20      A    I know Jim Cottos was there. I know that  
21 Jack Adair was there. And I know that Bob Cesca was  
22 there.

1       Q    How about Cottos and Blight?  
2       A    I know that Jim Cottos was there. Didn't I  
3 say that?  
4       Q    I'm sorry, if you did.  
5       A    I'm sorry.  
6       Q    But you don't know if Blight was there; is  
7 that right?  
8       A    I don't remember whether he was there.  
9       Q    And directing your attention to the meeting  
10 on the 28th of July -- first of all, was there a  
11 meeting that occurred on the 28th?  
12      A    Yes, that's right.  
13      Q    Where did that occur?  
14      A    RTC in Rosslyn.  
15      Q    Okay. And what was the purpose for the  
16 meeting and who attended?  
17      A    I think that was the meeting at which we  
18 also met with Ellen Kulka. I can't remember if that  
19 was on the 26th or the 28th. One of those two  
20 meetings, we met with Ellen Kulka.  
21      Q    I'm sorry. Who else was there?  
22      A    Who?



1 Q Yes, who was in attendance?

2 A At which meeting?

3 Q The meeting with Ellen Kulka.

4 A The meeting with Ellen Kulka, I know that

5 Pat Black, Jack Adair, Bob Cesca and I were in

6 attendance, along with Ellen Kulka and a couple of

7 her -- I think attorneys on her staff. I think there

8 were a couple of attorneys on her staff, one of whom

9 may have been Jack Binkley.

10 MR. O'CALLAGHAN: Why don't we stop for a  
11 second.

12 (Discussion off the record.)

13 BY MR. O'CALLAGHAN:

14 Q Okay. We're at the meeting with Ellen

15 Kulka over at the RTC; is that correct?

16 A Yes, which occurred the week of the 25th of

17 July, I'm not sure whether it was the 26th or the

18 28th.

19 Q Okay. And what was the purpose of the

20 meeting?

21 A Pat Black had called me up and said she'd

22 spoken to Ellen Kulka and Ellen Kulka thought that

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1 some redactions should be made in the transcripts.

2 Q And when did the call occur, was it that

3 day or the day before?

4 A I think it was the day before.

5 Q What was your reaction to that?

6 A I was very upset.

7 Q And what happened next? Was it a morning

8 meeting or --

9 A I don't remember when the meeting took

10 place during the course of the day. It was a long

11 meeting. I think it was before lunch because I

12 remember Bob and I going to lunch afterwards,

13 possibly with Jack Adair and my telling him --

14 Q "Him" being Jack Adair?

15 A "Him" being Bob Cesca -- my opinion of the

16 fact that the transcripts were now going to be

17 redacted.

18 Q Was that opinion similar to the one you

19 just voiced here?

20 A Yeah, you better believe it.

21 Q Rather than repeat the record?

22 A That's right.

1 Q While you're at the meeting or during the  
2 meeting, did you make any phone calls to anyone over  
3 at Treasury or Treasury IG's office?

4 A Well, I had told them in the general  
5 counsel's office what was going on with Ellen Kulka,  
6 and I think I may have also told Jane Sherburne. I  
7 viewed this as a major problem. Here we were given  
8 transcripts that were supposed to be made public  
9 within a week to the White House in order to help  
10 Cutler prepare for his testimony, and now suddenly  
11 RTC was going to say that certain aspects of the  
12 transcripts needed to be redacted. Well, it was  
13 going to look like confidential information had been  
14 given to the White House that shouldn't have been  
15 given to the White House.

16 Q What was Jane Sherburne's reaction to your  
17 phone call?

18 A She absolutely did not want the transcripts  
19 redacted. The White House wanted the transcripts to  
20 be made public in their entirety. Now, I don't  
21 remember when that conversation occurred with Jane  
22 Sherburne, but I know what her position was.

1 Q Okay. And how about Mr. Schmalzbach, what  
2 was his reaction?

3 A He wasn't happy about it.

4 Q You spoke with him, I don't know if you  
5 identified or not --

6 A Yes, I spoke with him.

7 Q And we're talking about before the meeting;  
8 is that right?

9 A That's right, before the meeting.

10 Q And what was his reaction, did he have one?

11 A He was not happy about it either. No one  
12 was happy about this -- the fact that this was being  
13 raised at the 11th hour --

14 Q Caused some concern?

15 A I'll say.

16 Q Okay. Did Mr. Schmalzbach relay this  
17 information to anyone else at Treasury that you know?

18 A I've seen an E-mail that he sent to Ed  
19 Knight.

20 Q Independent of that, do you know if he  
21 spoke to anyone about it?

22 A No.

1 Q Do you know why he spoke to Mr. Knight or  
2 E-mailed Mr. Knight?

3 A Mr. Knight was the executive secretariat.  
4 He kept Mr. Knight apprised, I'm sure, of all  
5 important developments.

6 Q Do you know if he had frequent contact with  
7 Mr. Knight during the course of July?

8 A I'm certain he had contact. How frequent  
9 it was I don't know.

10 Q Did he ever tell you or reference it?

11 A There were times when I'd go down to speak  
12 to him and be told that he was at a meeting with Ed  
13 Knight or he'd make reference to the fact that he had  
14 to go to a meeting with Ed Knight. So I know he saw  
15 Ed Knight. Ed Knight, as you recall from one of the  
16 E-mails, had interacted with Fiske and so he was  
17 representing the Secretary with regard to this  
18 general matter.

19 Q So he was in charge of organizing dealing  
20 with the upcoming hearings --

21 A Yes, that would be my understanding.

22 Q -- and investigations? And how did you --

1 did anyone tell you he had that role or did you --

2 A I divined that from the various things that  
3 were said over the course of many weeks.

4 Q And I'd asked you if you'd spoken with  
5 anyone at Treasury during the course of the  
6 meeting --

7 A During the course of the meeting, did I  
8 call anyone at Treasury? I don't know that it was  
9 during the course of the meeting. I may have called  
10 them afterwards to tell them what the upshot of the  
11 meeting was.

12 Q Did you call them before the meeting just  
13 to touch base?

14 A I may have called them before the meeting.  
15 I mean, the position of the Department and the  
16 position of the IG's office was one and the same with  
17 regard to this. There was no reason to redact the  
18 transcripts, and we were going to oppose redacting  
19 the transcripts. Now, Bob eventually agreed to  
20 redacting the transcripts, but that wasn't what  
21 anyone wanted initially.

22 Q Did you agree with that decision?

1 A No.

2 Q Did he consult you about that before he  
3 made the decision?

4 A It wasn't a matter of consulting me. We  
5 met with Ellen Kulka. Pat Black warned me in  
6 advance, don't say anything you don't want reported  
7 in the papers. And then I said, well, I don't  
8 understand why we're having this meeting -- and that  
9 was her opinion of that, but she'd gone to her to ask  
10 her if anything should be redacted.

11 Q Ellen is general counsel at RTC?

12 A Yes, she was the general counsel to RTC.

13 Q Okay.

14 A And her transcript said that they had had a  
15 conversation with David Kendall, the President's  
16 counsel. That was redacted from the transcript.  
17 Something, of course, the President was well aware of  
18 since it was his personal counsel. But in any event,  
19 I'm digressing.

20 There was a conference room in RTC. Ellen  
21 Kulka was there with Jack Binkley, I believe, and  
22 another attorney on her staff and there was Pat

1 Black, Jack Adair, Bob Cesca and me. Ellen said that  
2 she wanted to redact the transcripts, redact certain  
3 information from the transcripts. She didn't know  
4 what information she wanted to redact because her  
5 staff had not reviewed the transcripts, but she was  
6 certain there was something to be redacted.

7 Q What was Jack Adair's position on this?

8 A He stood there mute. He sat there mute, as  
9 did Bob Cesca.

10 Q The two IGs or the IG and the acting IG?

11 A That's right.

12 Q So who was most of the dialogue between,  
13 you and Ms. Kulka?

14 A That's right. Pat Black, of course, was  
15 delighted that something might be redacted.

16 Q With regard to the telephone conversations  
17 you had with people at Treasury, was there any  
18 discussion of how -- of strategies of how to prevent  
19 this from happening, considerations --

20 A I don't recall even having such  
21 conversations. I certainly would not be surprised to  
22 learn that I made such phone calls. In terms of the



1 strategy, my strategy was to oppose it and that's  
2 what I did vocally at the meeting. But Bob Cesca  
3 wasn't an attorney. Pat Black wasn't going to oppose  
4 the idea. She stayed quiet also. Jack Adair wasn't  
5 an attorney. So it was a discussion between me and  
6 the general counsel of the RTC, and just as -- well,  
7 I've made my answer.

8 Q Who made -- for the RTC who made the  
9 decision for the redactions, that the redactions  
10 should be made?

11 A It was -- they were both sitting there,  
12 both IGs.

13 Q Did both IGs agree to it?

14 A Yes, they both agreed to it.

15 Q Did you have a conversation with  
16 Ms. Sherburne towards the end of July where she  
17 voiced to you an objection that the White House had  
18 to the release of deposition transcripts before --

19 A Is there something you're looking at?

20 Q I'm just asking you if you --

21 A I'm sorry, could you repeat what you said  
22 then?

1 Q Whether or not you had any conversation  
2 with Ms. Sherburne with regard to any objections the  
3 White House had with the release of the transcripts,  
4 either with the report or in any other form, at the  
5 end of July?

6 A The objection that they had was that they  
7 did not want the transcripts released in a redacted  
8 form. They wanted it in an unredacted form. That  
9 was the objection.

10 Q That's the one you referred to earlier;  
11 right?

12 A Yes, that's exactly right.

13 Q Did you have any specific contact with  
14 anybody in the general counsel's office with regard  
15 to the suggested edits that they provided to you to  
16 the draft report other than Mr. McHale?

17 A I don't recall any such conversation. I  
18 don't even recall having such a conversation with  
19 Mr. McHale. I think after the fact I told Steve  
20 that, you know, I had presented the edits, and that  
21 some of them had been accepted and some of them  
22 hadn't.

1 Q Well, you mentioned earlier that when he  
2 approached you he seemed a little uncomfortable --

3 A No, I didn't use the word "uncomfortable."

4 Q I'm sorry, I didn't mean to mischaracterize  
5 it. I think you said "apprehensive"?

6 A I didn't say "apprehensive." He wanted me  
7 to understand that he understood that we were  
8 independent and that we could toss these aside if we  
9 wanted to or use them if we thought they were useful.

10 Once again, any suggestions he made were  
11 based on the transcripts. And the whole editing  
12 process, whether it was OGE, my suggestions, the  
13 OGC's suggestions -- or anyone else's suggestions if  
14 there was anyone else that I left out of the list --  
15 was to look at the transcript, look at the chronology  
16 and see whether or not the transcript matched up with  
17 the chronology.

18 Q Are you aware that there were any documents  
19 that were requested by the independent counsel of the  
20 Treasury IG's office that were responsive to the  
21 requests that weren't turned over? And I'm not  
22 asking for the substance of the documents I'm just

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1 asking if you have any knowledge.

2 MR. MC DOUGAL: I'm sorry, I didn't really  
3 catch the tail end of the question.

4 MR. O'CALLAGHAN: Sure. The question was  
5 whether she has any knowledge if there were any  
6 documents that were requested by the independent  
7 counsel in the investigation to the Treasury IG that  
8 were not turned over.

9 MR. MC DOUGAL: Withheld for any reason?

10 MR. O'CALLAGHAN: Other than -- well, let's  
11 start with for any reasons that were responsive to  
12 the request made by them.

13 THE WITNESS: Well, I don't know that  
14 that's an appropriate area to get into. I mean, it's  
15 not my understanding of what the subject matter of  
16 this was going to cover.

17 MR. MC DOUGAL: It is our position that  
18 it's irrelevant. I don't know that the privilege  
19 would keep us from answering.

20 THE WITNESS: But my understanding is that  
21 there's an agreement that they won't go into a  
22 discussion of the independent counsel's

1 investigation.

2 BY MR. O'CALLAGHAN:

3 Q I think the question doesn't deal with  
4 substance, it deals with --

5 A Well, it does deal with the substance.

6 MR. MC DOUGAL: I think he's asking was the  
7 response a complete one.

8 MR. O'CALLAGHAN: Correct.

9 MR. MC DOUGAL: And as long as it doesn't  
10 go beyond that I don't know that we can assert a  
11 privilege. I think it is irrelevant here.

12 MR. O'CALLAGHAN: You can note an objection  
13 on the record.

14 THE WITNESS: No, I don't know of any.

15 BY MR. O'CALLAGHAN:

16 Q Have you ever been told that all responsive  
17 documents weren't turned over to the independent  
18 counsel?

19 A I think Jim Cottos has made that complaint.

20 Q Did he make that complaint to you?

21 A No, never.

22 Q What makes you believe that Jim Cottos made

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1 the complaint?

2 A I believe he made it to Rick Doery, who  
3 told me he made it. And my advice to Rick was to  
4 show Jim whatever had been turned over and if he  
5 thought there was anything else that should be turned  
6 over, turn it over.

7 Q And who is "Jim"?

8 A Jim Cottos.

9 Q When did this occur?

10 A Well --

11 MR. PORTNOY: Which, her conversation with  
12 Cottos or Cottos's conversation with Doery.

13 MR. O'CALLAGHAN: Cottos with Doery.

14 THE WITNESS: Well, I think I heard  
15 about -- the complaint that I remember hearing about  
16 was after I was over at FINCEN, so that would have  
17 been after April of '95.

18 BY MR. O'CALLAGHAN:

19 Q While you were at Treasury IG --

20 A Mr. Cottos is not an attorney. He did not  
21 study the scope of the subpoena. He did not enter  
22 into any agreements with the special -- with the

1 independent counsel as to what would or would not be  
2 produced. Therefore, although there might have been  
3 documents which he would have liked to have  
4 discussed, that doesn't necessarily mean that they  
5 were in the scope of production.

6 Q Who determined what was in the scope of  
7 production?

8 A Rick Doery with the team that I described  
9 to you much earlier in the day.

10 Q How long have you known Rick Doery?

11 A Since he came to work at the Commerce IG's  
12 office. I was not counsel at the time, so I didn't  
13 hire him.

14 Q At Commerce IG?

15 A Right.

16 Q You worked with him at Commerce?

17 A Yes.

18 Q And when you went over to Treasury, did he  
19 go over there with you --

20 A He didn't go over with me.

21 Q -- at the same time or contemporaneously?

22 A There came a point in time when he was

1 hired to be my deputy.

2 Q How long was that after you were at  
3 Commerce -- I mean Treasury?

4 A Several months. I hadn't worked with him  
5 for years, though, because in the interim, from '89  
6 to '92, I had been working in the general counsel's  
7 office. So I had no daily contact with him during  
8 that period of time. He was an excellent attorney.  
9 I knew his work. He had certain organizational  
10 skills that were exceptional, and I felt happy to be  
11 able to convince him to come over and work at  
12 Treasury.

13 Q Did he ever relate to you that any  
14 documents might have been withheld that were  
15 responsive to the independent counsel's request?

16 A No.

17 Q With regard to documents produced to the  
18 Special Committee -- or, excuse me, let me withdraw  
19 that.

20 With regard to document requests made by  
21 the Special Committee, are you aware of any documents  
22 that were responsive to the subpoena -- this is a



1 general question -- that had been shredded by anyone  
2 at the Treasury IG's office?

3 A Well, I'm aware that certain documents were  
4 shredded. I shredded documents on October the 12th  
5 at 9:00 p.m., the Xerox machine started acting up and  
6 I needed to get the documents over to you -- to  
7 Rick. I was with Rick in the office. As you recall,  
8 you wanted the documents on Saturday -- it was the  
9 13th of October that I was there. Friday night. You  
10 wanted the documents on Saturday. My deposition was  
11 originally scheduled for the day of the million man  
12 march.

13 Q The 15th?

14 A Right. I stood at the Xerox machine in the  
15 IG's office, having brought the documents with me  
16 from FINCEN to the IG's office, and the machine  
17 started acting up.

18 Q How did it start acting up?

19 A Paper would jam midway through a big pile  
20 of paper.

21 Q Okay, and where were you, what office?

22 A In the IG's office.

1 Q So paper started to jam, so what happened?

2 A So I had two alternatives. One was to try  
3 and figure out what had been Xeroxed and what had  
4 not. The other, because I was tired and afraid I  
5 might make a mistake, was to trash the output from  
6 the output tray and start again. That's what I chose  
7 to do.

8 Q What documents were you making copies of at  
9 the time?

10 A The ones that I produced for you now. The  
11 ones that are in 1 to 2242.

12 Q At the point you did the shredding, how  
13 many copies had you made?

14 A It happened several times unfortunately,  
15 and several times I -- just at various points in the  
16 evening, because it was already 9:00 p.m., I  
17 discarded the output and started again. Then I  
18 realized I was not doing myself any favor to put so  
19 many documents down at once and I thought that might  
20 be what was causing the paper jams. So I started to  
21 Xerox smaller quantities of the documents and after  
22 that the machine began to operate more efficiently.

1 Q So how many pages would you say were  
2 shredded?

3 A I really don't recall. It was a  
4 significant amount. It was not just two or three  
5 pages.

6 Q Was it equal to the amount of pages that  
7 had been copied in total in the box there?

8 A Oh, nowhere near that. Maybe it was the  
9 equivalent of a single binder over the course of  
10 about an hour or two of Xeroxing.

11 Q When did you begin to do the Xeroxing in  
12 the IG's office?

13 A That was about 9:00 p.m.

14 Q And when did you complete your Xeroxing of  
15 all the documents?

16 A I think we left about 11:00. Now, during  
17 that period of time Rick Doery also shredded  
18 documents.

19 Q What documents did he shred?

20 A He shredded documents I handed him. I told  
21 you, he's well organized. As I handed him paper  
22 after paper after paper and he was crossing out the

1 Bates stamp numbers and putting new Bates stamp  
2 numbers on, he said to me in disgust, Francine, why  
3 are you giving me all these copies. And then he got  
4 up from behind his desk and went over to the shredder  
5 and he said I don't need all these duplicates and he  
6 shredded some paper.

7 Q So when you handed him the documents he  
8 recognized them as copies of documents that he had  
9 already produced?

10 A No, he recognized them as copies of  
11 documents that I had had handed him within that same  
12 space of time.

13 (Discussion off the record.)

14 BY MR. O'CALLAGHAN:

15 Q While we were off the record there were a  
16 couple issues raised about clarification on some of  
17 the questions I've been asking, and I'm more than  
18 happy to try to clarify and get rid of the  
19 ambiguity. The production that you were conducting  
20 on October 13th --

21 A Right.

22 Q -- for what purpose was that production

1 being conducted?

2 A That was after I had been advised by Lori  
3 Vassar that the Committee wanted me to produce what I  
4 had in my possession, even if it was duplicates of  
5 what the IG had already produced.

6 Q And we were talking about -- I was  
7 referencing documents that were being shredded.

8 A Right.

9 Q And were these duplicates of originals?

10 A These were the -- I only had photocopies.  
11 I was making Xerox copies for the Committee of my  
12 photocopies. I made Xerox copies of everything I had  
13 at that point, even if I had multiple copies of the  
14 same document. So I stood at the Xerox machine  
15 putting down paper and the pages started to jam. So  
16 I did not do anything to the paper that I came into  
17 the office with. That's still completely whole, but  
18 the --

19 Q Nothing was eaten by the copy machine?

20 A No, nothing was eaten by the copy machine.  
21 So the only paper I disposed of were the Xerox copies  
22 that I was attempting to make for the Committee of

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1 whatever I came into the office with.

2 Q How many times would you say that the copy  
3 machine jammed on you?

4 A I would say it was three or four times.

5 Q And how big were the stacks you were  
6 putting in the machine? Give me inches.

7 A About three inches, three- to four-inch  
8 stacks.

9 Q And typically when did it begin to jam, in  
10 the beginning of the stack?

11 A No, always midway. Always when we were  
12 about almost finished, maybe halfway through, but  
13 not -- but I was very tired. My children wanted to  
14 know when I was coming home.

15 Q It was 9:00 to 11:00?

16 A That's right. To stand there and try to  
17 figure out what had been Xeroxed and what hadn't, I  
18 felt that I would inevitably make a mistake.

19 Q Make a mistake about what was in your  
20 personal possession and what was in the IG's  
21 possession?

22 A I don't know what was in the IG's

1 possession. I did no Xeroxing of anything that was  
2 in the IG's possession. I was just there to help  
3 Mr. Doery produce what had been in my possession.

4 Q Now, with regard to the copies that you  
5 were handing Mr. Doery --

6 A Right. There were multiple copies of  
7 documents within the paperwork I handed Mr. Doery.

8 Q Okay. And Mr. Doery recognized copies as  
9 you were handing them to him?

10 A Yes, because this process was going on. So  
11 within the first hour of my Xeroxing, attempting to  
12 get Xeroxing done, as I keep handing him new batches  
13 of output to produce to the Committee and he's going  
14 through crossing out old Bates stamp numbers in  
15 preparation for putting on new Bates stamp numbers,  
16 he complained to me these are duplicates, why are you  
17 giving me all these duplicates, I don't need to be  
18 producing duplicates to the Committee.

19 Q What percentage of the documents that you  
20 were copying were duplicates?

21 A I think it's about half.

22 Q Did he --

1 A And this.

2 Q Did you set up a system to recognize the  
3 duplicates as they were being made, as the copies  
4 were being made?

5 A I didn't, no.

6 Q Did he, or was he just eyeing them and  
7 saying, oh, I've seen this before and then shredding  
8 it?

9 A Well, I know that there's a limited  
10 quantity of documents here. And I know that when you  
11 go through them -- because, remember, this is the  
12 second or third production of the same similar  
13 documents that Mr. Doery has made. Therefore, he is  
14 very familiar with the documents in question and  
15 could easily spot when they were duplicates.

16 Q Were you told that there were documents in  
17 the documents you brought to the office that day,  
18 that night, October 13th that hadn't previously been  
19 provided to the Committee?

20 A Well, I knew that there were documents that  
21 I brought that hadn't previously been brought to the  
22 Committee because I knew what the scope of the



1 independent counsel's subpoena was, and I knew what  
2 we had produced in response to that subpoena, and I  
3 knew that what I had in my possession were documents  
4 that were outside the scope of that original  
5 production.

6 Q Okay. And were all those documents  
7 provided?

8 A All of which documents?

9 Q The documents that were outside of the  
10 scope of the independent counsel's request.

11 A Everything I had in my possession has been  
12 provided to you. Now, since October 13th when I did  
13 the Xeroxing, I made additional copies of documents  
14 because originally it was my intent during the  
15 interim period to do some sort of cross-referencing  
16 system for the documents. And then I read the  
17 articles about shredding. And so I decided that  
18 rather than have any question, I would simply Bates  
19 stamp every document I had in my possession and bring  
20 it down here.

21 Q And that's what you've done today?

22 A And that's what I've done.

1 MR. MC DOUGAL: Excuse me one second.  
2 (Witness conferred with counsel.)

3 THE WITNESS: Duplicates and all. There  
4 are a very few pieces have paper that are in a burn  
5 bag at main Treasury because in making this  
6 production to you there are invariably problems that  
7 occur with the Xerox machine, and so this time  
8 instead of shredding those I put them in a burn bag.  
9 But that's a very small quantity because I was using  
10 a better Xerox machine.

11 BY MR. O'CALLAGHAN:

12 Q And when did that happen?

13 A Over the course of this past weekend.

14 Q Okay. And what was put in the burn bag?

15 A Copies of some of the documents you have  
16 here now. For instance, there were also problems  
17 with certain copies because when I went to make holes  
18 for the binders, the paper wasn't positioned  
19 correctly in the hole stamper, and so the hole was  
20 too close to the edge and it wouldn't fit into the  
21 binder, it would have just floated out of the binder.

22 Q And when you were doing that production,

1 was anyone there assisting you?

2 A My husband.

3 Q I'm sorry, when did that occur again?

4 A This weekend. And my daughter and my son.

5 Q And this was at your office?

6 A This was at main Treasury.

7 Q Main Treasury. Anyone else from Treasury  
8 there?

9 A Various people have walked in and out of  
10 the office at various points in time. I've also been  
11 working on helping assist the Department on Waco and  
12 so I've been working on Waco and working on  
13 Whitewater and people would walk in and out.

14 Q Did anyone assist you this last weekend  
15 from Treasury?

16 A Not from Treasury, no.

17 Q From Treasury IG's office?

18 A No.

19 Q Other than your --

20 A I asked Rick Doery a question last night  
21 about whether certain documents relating to the  
22 independent counsel production were produced to you.

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1 But as far as I know I haven't gotten a response from  
2 him on that.

3 Q What documents -- well --

4 A It's a limited -- I've pulled out certain  
5 documents from the production to you and because they  
6 relate to the independent counsel, and so wherever  
7 those documents have been pulled there's a sheet that  
8 it reflects communications with the independent  
9 counsel.

10 Q Okay. Are you aware of any other documents  
11 that have been destroyed that are responsive to the  
12 Committee's request?

13 A I'm aware that Mr. Doery shredded duplicate  
14 copies of other documents that have nothing to do  
15 with my production.

16 Q And what's your understanding as to what  
17 happened there?

18 A My understanding is that he was over at the  
19 ICC building and he noticed that there were multiple  
20 copies of the same document and that he shredded  
21 them.

22 Q Does he work in the ICC building?

1 A No, he works in main Treasury.  
2 Q And whose office was he in?  
3 A I don't know what office he was in.  
4 Q Do you know if it was Jim Cottos's office?  
5 A It may have been in that suite of offices.  
6 It was in connection with OI production, office of --  
7 the office of investigation production.  
8 Q To the Committee?  
9 A Yes.  
10 Q And what were you told about what was  
11 shredded and what quantity, if you were?  
12 A I was told by Mr. Doery that there were --  
13 that there was an index to documents and that it was  
14 a long document and that he shredded several copies  
15 of it. That's what I recall. I may not have that  
16 100 percent correct.  
17 Q And did he say the index was long, it was a  
18 long index of documents?  
19 A Yes.  
20 Q Did he say what the origin -- it's getting  
21 late and my tongue is twirling?  
22 A That's all right.

1 Q Did he identify where the index came from,  
2 who supplied it, what it related to?  
3 A I don't recall what it was an index to.  
4 Q Was it an index to a specific document  
5 production that had been made?  
6 A I don't recall what it was an index to.  
7 Q Do you recall if he told you?  
8 A I think he did tell me.  
9 Q And you don't remember now?  
10 A I don't remember now what it was.  
11 Q Was it an index to a document produced by  
12 the White House?  
13 A That rings a bell.  
14 Q After I suggested that, does that refresh  
15 your recollection?  
16 A Yes, yes.  
17 Q So it was a White House index?  
18 A Yes. A document I don't ever recall  
19 seeing.  
20 Q And was this an index of documents that  
21 were produced to the IGs or -- let's start with  
22 that.

1 A I don't recall ever seeing the document.  
2 When he said there was such an index I expressed  
3 surprise. I don't recall.

4 Q Did you tell him you were surprised?

5 A Yes. I told him I don't recall such an  
6 index.

7 Q And did he respond and say --

8 A Not at all. He didn't respond.

9 Q He didn't say --

10 A I'd just like to pride myself on  
11 remembering all documents. Obviously, I don't.  
12 There are many things I don't remember.

13 Q He didn't say, oh, you don't remember this  
14 index from this and that?

15 A He just said there was an index. I just  
16 have to take his word for it.

17 Q Did he tell you how many pages were  
18 contained?

19 A No, he said it was a long index.

20 Q What would your understanding be of a long  
21 index?

22 A I have no idea how to characterize "long."

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1 I'll leave that for him to do since I don't recall  
2 ever seeing this document and I don't recall him  
3 telling me how long it was.

4 Q When did he tell you about this?

5 A Last night. I had called his office to  
6 find out about the production of information to you  
7 concerning the independent counsel, and he came up to  
8 see me and Mr. McDougal and we then engaged in a  
9 general discussion about the production.

10 Q Had you previously heard that he had been  
11 over at the ICC building and had shredded documents?

12 A I had heard that he -- that a complaint had  
13 been made involving his shredding of documents.

14 Q What did you hear?

15 A I think I heard it from -- who did I hear  
16 it from? Well, I don't know. I don't know on  
17 reflection whether it was his name that I heard or  
18 whether I was simply told by Lenore Kaplan that it  
19 didn't have anything to do with me and so then I  
20 made --

21 Q Is this a question posed after hearing  
22 something from someone else?



1 A It was a newspaper article about  
2 shredding. I knew I had shredded Xerox copies. I  
3 leaped to the conclusion that somehow the shredding  
4 incident involved the Xerox copies that I had  
5 shredded.

6 Q So you approached Lenore Kaplan?

7 A Yes.

8 Q Did she discuss any shredding that might  
9 have occurred?

10 A I know of no shredding other than what I've  
11 described to you. I know the shredding that I did of  
12 Xerox copies.

13 Q On October 13th?

14 A On October 13th between 9:00 p.m. and 11:00  
15 p.m. of documents that I had had in my possession for  
16 months that I had brought to the IG's office to  
17 assist in getting the Committee the information it  
18 needed as quickly as possible. I know that Mr. Doery  
19 shredded some paper in my presence relating to  
20 duplicates. It wasn't a lot.

21 Q Same evening; correct?

22 A The same evening in my presence complaining

1 to me that I was giving him duplicates and he didn't  
2 need to produce duplicates of duplicates of  
3 duplicates. And then last night I learned -- well,  
4 somewhere in the course after the newspaper article  
5 appeared I learned that the shredding didn't involve  
6 me or might not involve me. It wasn't explicitly  
7 stated.

8 Q That was by Lenore Kaplan?

9 A That was by Lenore Kaplan. And then last  
10 night when I left a voice mail on Rick's phone about  
11 the production to you concerning independent counsel  
12 communications, he came up to my office in response  
13 to that voice mail and, one, I hadn't spoken to him  
14 since before the articles appeared on shredding, so  
15 we had a general discussion about the shredding.

16 Q Okay. Did he give you any other details  
17 about the shredding that occurred at the ICC  
18 building?

19 A He said Peter Rittling was present and he  
20 also said that an OIG investigator was present. He  
21 also said that investigator had spoken to Chet, who  
22 is the deputy, and that Chet had said something to

1 Jim Cottos and that there was a decision made that it  
2 should be reported to the Committee.

3 Q And Mr. Doery was apprised of that?

4 A Apprised of what?

5 Q The recommendation.

6 A That it would be reported to the  
7 Committee?

8 Q Uh-huh.

9 A I didn't ask him about whether he was  
10 apprised of that. He told me that he'd been  
11 interviewed by the independent counsel about it. It  
12 was no secret, in other words, that he was now the  
13 subject of this question concerning shredding.

14 Q Okay. And I guess I shouldn't limit it to  
15 shredding because you referenced earlier putting  
16 documents in a burn bag.

17 A I didn't put anything else in a burn bag  
18 other than what I've described to you. It was all  
19 from this past weekend.

20 Q Do you know of any other incidents where  
21 documents were destroyed since that were responsive  
22 to the Committee's request?

1 A No, and I don't believe that any documents  
2 that were responsive to your request were destroyed.  
3 Certainly I don't believe that I destroyed documents  
4 responsive to your request when I disposed of Xerox  
5 copies as I was trying to Xerox copies for you. I  
6 hope you agree with me.

7 Q Were any -- well, I'm not in a position to  
8 agree or disagree.

9 A Otherwise it's an endless cycle dealing  
10 with the Xerox machine and producing paper, bad paper  
11 on top of bad paper.

12 MR. O'CALLAGHAN: Go off the record for a  
13 second.

14 (Discussion off the record.)

15 BY MR. O'CALLAGHAN:

16 Q Do you have a statement you wanted to make?

17 A Yes, right. I just want to make it clear  
18 that anything which was destroyed in my presence did  
19 not involve the documents that existed at the time --  
20 were not documents that had existed at the time that  
21 the Committee made its request.

22 Q These were documents that were created

1 recently?

2 A They were documents that were photocopies  
3 of things that the Committee had requested. The only  
4 thing, in other words, I --

5 Q So no originals were destroyed, is that  
6 what you are saying?

7 A And no photocopies, no photocopies -- I  
8 walked into the IG's office that day with a certain  
9 set of papers. That's the set of papers that existed  
10 on the day that I understood you to have made the  
11 request.

12 Q And you say none of the papers from that  
13 box were destroyed without having a duplicate made at  
14 least?

15 A No, none of the papers from that box were  
16 destroyed, period. The only thing that was destroyed  
17 was Xerox copies of what was in that box and they  
18 were bad copies --

19 Q You've brought us --

20 A -- or duplicates of what I -- Xerox copies  
21 of duplicates.

22 Q And you've made -- you are making a

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1 production to us today of a box of documents?

2 A That's correct.

3 Q Is that the same universe of documents that  
4 you made copies of?

5 A It includes more because in the interim I  
6 made more copies of different documents.

7 Q And this is the last question on this  
8 subject, I hope. With regard to the documents that  
9 were responsive to the Committee's request for  
10 documents --

11 A Yes.

12 Q -- were there any documents that the  
13 Committee did not receive that you had in your  
14 possession, custody or control?

15 A Not that I'm aware of, no. I've given you  
16 everything that I have.

17 Q Were there any documents of a similar  
18 nature in the possession, custody or control of the  
19 IG's department that were not produced to the  
20 Committee?

21 A As I think I said a long time ago, but it's  
22 been hours so it's hard to refresh --

1 Q Your knowledge is all I'm asking for.

2 A Let me just explain to you, when I walked  
3 in -- I don't know. Because they have never given me  
4 a set of what they produced to the Committee. I have  
5 no idea what he produced to the Committee out of the  
6 papers that I handed to him.

7 Q I'm just asking for your knowledge.

8 A Yes, I have no idea what he produced to the  
9 Committee. I have no reason to think that he didn't  
10 produce adequately or appropriately, but I have no  
11 way of knowing what he produced to the Committee.

12 Q Did you receive any or was there any  
13 disciplinary action taken with regard to you in  
14 relation to the events we've been discussing today?

15 A I received a special act award for my  
16 contribution to the Whitewater inquiry.

17 Q How about with regard to Mr. Cesca?

18 A Absolutely not.

19 Q What's Mr. Cesca's current position?

20 A I don't know what his current title is.

21 Q Have you spoken with him recently or in the  
22 last couple --

1 A Yes, I know he's no longer deputy IG.

2 Q You don't have any knowledge of whether any  
3 disciplinary action was taken with regard to either  
4 one of you?

5 A Well, I've just explained to you absolutely  
6 and unequivocally there was no disciplinary action  
7 taken with regard to either one of us.

8 Q And the next question is did either one of  
9 you receive a demotion after the after the  
10 transcripts were handed over to the White House,  
11 since then?

12 A Absolutely not. I was a 15 step 10 at that  
13 time. I've been a 15 step 10 today, and, moreover, I  
14 received an outstanding for my performances during  
15 94. I received an outstanding for my performance  
16 during '95 and a special act award for my  
17 contribution to the Whitewater inquiry.

18 Q Okay. And the last question on this is  
19 whether or not either one of you received not a  
20 demotion in pay scale but in your position line of  
21 authority in the Department of Treasury?

22 A Well, I'm now in the FINCEN office. I'm no



1 longer working in the IG's office. But that -- what  
2 was your question again? Ask the question again.

3 Q Sure, I'd be happy to. Since the release  
4 of the transcripts to the White House whether either  
5 you or Mr. Cesca have received a demotion, not with  
6 regard to pay scale, but with regard to  
7 responsibility or chain of command in your position?

8 A Well, let's see. I am no longer counsel to  
9 the Inspector General. Valerie Lau wanted to select  
10 her own counsel. My understanding is that she wanted  
11 to select new counsel from the very first week that  
12 she got to the Department. She and Ed Knight agreed  
13 that she would have an opportunity to do that. That  
14 was not a demotion for me, that was an agreement  
15 between the two of them that as an IG she would get  
16 to select new counsel.

17 With regard to Mr. Cesca, she has made many  
18 changes within the organization, many different  
19 changes among the SES and she chose to make a change  
20 with respect to her deputy. That was done many  
21 months after she came on board.

22 Q So these are changes that were made by

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1 Ms. Lau?

2 A Well, with regard to me, it was a change  
3 that had to be agreed to by Ed Knight.

4 Q And why did Mr. Knight have to agree to  
5 that?

6 A Because technically, I'm in the general  
7 counsel's office.

8 Q And was Mr. Knight general counsel at the  
9 time this change was made?

10 A Oh, yes.

11 MR. O'CALLAGHAN: I just wanted to make  
12 sure. I have no further questions at this time.

13 MR. PORTNOY: I'd like to take five minutes  
14 and then come back.

15 EXAMINATION

16 BY MR. PORTNOY:

17 Q Good afternoon, Ms. Kerner.

18 A Hi.

19 Q My name is Jim Portnoy. I'm counsel for  
20 the Democratic staff of the Special Committee and I  
21 have a few follow-up questions.

22 Starting first with the last subject that

1 Mr. O'Callaghan had addressed, you testified that on  
2 Friday, October 13th, between 9:00 and 11:00 p.m.,  
3 you were copying documents with Mr. Doery; is that  
4 correct?

5 A I was doing the copying. He was sitting at  
6 his desk and the times are just approximate. It's  
7 approximate times.

8 Q And these were documents that you had  
9 brought with you from your current office?

10 A That's correct. They had been in my  
11 intermediary office and then brought to the IG's  
12 office because I worked out of an office at main  
13 Treasury as well.

14 Q I believe you testified that you don't keep  
15 any permanent records at home?

16 A That's correct.

17 Q Do you keep any records anywhere other than  
18 your current office?

19 A On Whitewater, by the way. On Whitewater.

20 Q Any records that would be pertinent to this  
21 investigation or responsive to our document request,  
22 do you keep any documents of that nature anywhere

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1 other than your current office?

2 A There's my FINCEN office in Vienna,  
3 Virginia. That's where these documents resided since  
4 I went out there in April of '95. Then when I heard  
5 that I was going to be deposed, I was also  
6 responsible for working on preparation for the Waco  
7 hearings yesterday and today, and so I moved a batch  
8 of documents to the temporary office that I had at  
9 the Treasury building, main Treasury we call it, on  
10 Pennsylvania Avenue.

11 Then there came a point in time when Lori  
12 told me the Committee wanted the documents that I had  
13 in my personal possession, so that's when I started  
14 to turn over documents to the IG's office so that  
15 they could make the production.

16 Q Did that include the documents that had  
17 been in the temporary Waco office?

18 A Yes, those were the documents.

19 Q Are the documents that were stored in the  
20 Waco office among the documents that you've produced  
21 to us today?

22 A Absolutely.

1 Q So to be sure that I have this straight,  
2 you had some documents at your current office, you  
3 had some documents at the Waco -- the temporary Waco  
4 office, and those were the only two places where you  
5 would have documents that were responsive to our  
6 document request?

7 A That's correct. And let me just explain, I  
8 moved the documents from FINCEN to the temporary  
9 office in main Treasury. That was the production.  
10 That was originally all out of FINCEN, and then it  
11 was all at main Treasury in my temporary office, and  
12 then I turned it all over to the IG's office.

13 Q So, in fact, the documents were always in a  
14 single place, it's just that the place changed?

15 A Exactly.

16 Q You indicated that some photocopies of  
17 documents were shredded on the night of the 13th?

18 A That's correct.

19 Q And you were in the main Treasury building  
20 at the time?

21 A Yes, in the IG -- in the offices of the  
22 counsel to the Inspector General.

1 Q Where was the shredder?

2 A The shredder was outside Lori Vassar's  
3 office. It's a small shredder, it's not very large.  
4 It's about the size of, you know, 18-by-12, I would  
5 say. It sits on the floor. It doesn't shred things  
6 into tiny, tiny little pieces. In fact you can see,  
7 you can see what's been shredded. It shreds things  
8 into documents I would say into about 1/8 of an inch  
9 thick, strips of about 1/8 of an inch thick. It's  
10 the shredder I had when I occupied that office. And  
11 Lori Vassar was in the office right before I began  
12 the Xeroxing. So she knew that I was there to Xerox  
13 documents and help with the production.

14 Q Did you ever indicate to her in any way  
15 that you had used the shredder outside her office?

16 A No. I haven't spoken to her about  
17 shredding.

18 Q Is that the only time you used the shredder  
19 outside Ms. Vassar's office?

20 A I hadn't been --

21 Q In the last month?

22 A I hadn't been in Ms. Vassar's office until

1 that week, I don't think. I hadn't met her before  
2 that I recall. I may have met her in terms of the  
3 IG --

4 Q Let me restate the question so I can get a  
5 direct response, please. Is that the only time in  
6 the last month that you've used that shredder?

7 A That's correct.

8 Q Thank you.

9 When you completed your photocopying that  
10 evening, what did you do with the documents, both the  
11 photocopies and the originals?

12 A The originals I moved back to my temporary  
13 office in main Treasury. The photocopies I gave to  
14 Mr. Doery.

15 Q So you took the originals and presumably  
16 carried them to your car?

17 MR. O'CALLAGHAN: Originals?

18 BY MR. PORTNOY:

19 Q I'm sorry. For the purposes of this  
20 question the originals are the documents that you  
21 brought with you to the Inspector General's office.

22 A Right.

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1 Q And you then collected those documents and  
2 brought them to your car?

3 A No, I brought them to my temporary office  
4 at main Treasury. I rushed them to my temporary  
5 office at main Treasury.

6 Q I see. So the documents had been in main  
7 Treasury all along, your temporary office was in main  
8 Treasury?

9 A Exactly.

10 Q Did you take any documents either  
11 photocopies or originals out of main Treasury that  
12 evening?

13 A I did not. Mr. Doery did. Mr. Doery was  
14 going to be making the production to you the next  
15 day, and I drove him home.

16 Q What documents did Mr. Doery remove from  
17 the office that night?

18 A I don't know. I didn't ask to look at what  
19 he removed. I just knew that he was sick. He was  
20 sick, he was not feeling well. So I offered to drive  
21 him home, which was on my way to my home as well.  
22 And the whole point of my staying to help was so that



1 he didn't have to come back the next morning, so that  
2 he could go directly from his home to the Committee.  
3 That's what I recall.

4 Q You don't know what documents Mr. Doery  
5 brought home with him; is that correct?

6 A I know that I have reason to believe they  
7 were the documents that he intended to produce to you  
8 on Saturday.

9 Q Were they the documents that the two of you  
10 had just photocopied?

11 A Some of them were. There may have been  
12 others because he was making more than a production  
13 of just what I had, he was also making a production,  
14 as I understood it, of what Bob Cesca had and what  
15 Jim Cottos had.

16 Q Did Mr. Doery, to your knowledge, remove  
17 any documents that he did not first photocopy?

18 A You know, I don't believe that he did, no,  
19 because I think what happened was that after he put  
20 new Bates stamp numbers on, I helped him photocopy  
21 the new Bates stamp numbers. Somehow we got a copy  
22 to give to you and a copy for him to keep.

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1 Q Maybe we should go through the evening's  
2 events a little more systematically. You arrived at  
3 9:00 p.m. approximately?

4 A I arrived earlier. I arrived somewhat  
5 earlier.

6 Q Where had you been before arriving at the  
7 Inspector General's office that evening?

8 A At my temporary office in main Treasury.

9 Q And when you arrived at the Inspector  
10 General's office, did you have with you the documents  
11 that you'd photocopied that evening?

12 A Not necessarily the first time. I think I  
13 left and came back with the documents that I  
14 photocopied that evening.

15 Q Did you bring them downstairs yourself, or  
16 did someone bring them for you?

17 A I brought them myself.

18 Q Did Mr. Doery meet you at the Inspector  
19 General's office, or was he already there?

20 A He was there. I was not in the Inspector  
21 General's suite by myself at any time.

22 Q Did you need access to any files that were

1 in the Inspector General's office in order to  
2 complete your production of documents?

3 A Absolutely not.

4 Q So the only documents that you photocopied  
5 that night for the purposes of your production were  
6 the documents that you brought with you from your  
7 temporary office upstairs?

8 A Yes. And, you know what, I'm just  
9 refreshing my recollection, I think that the other  
10 documents had already been Xeroxed so I didn't -- the  
11 other documents from Jim Cottos and Bob Cesca had  
12 already been Xeroxed earlier that day, is my  
13 recollection now. I didn't see those on the 13th.

14 Q Okay. So you and Mr. Doery were in the  
15 Inspector General's office at the photocopier and you  
16 developed some system to photocopy your documents and  
17 then somehow Bates stamp them?

18 A I was standing at the photocopier by  
19 myself. Mr. Doery was sitting at his desk. As I  
20 photocopied documents, I gave them to Mr. Doery. He  
21 would then cross out the Bates stamp numbers at the  
22 bottom with a black marker, and at some point he put

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1 a new Bates stamp number on them.

2 Q And those are the numbers 1 through 2442,  
3 or different numbers?

4 A Those are different. Those are from the IG  
5 production.

6 Q It took you about two hours to complete the  
7 photocopying and Bates stamping?

8 A That's right.

9 Q Mr. Doery then collected some documents,  
10 among them the documents that you had photocopied but  
11 including some other documents?

12 A It may have included some other documents.  
13 I don't know. I didn't look through the documents  
14 that he collected.

15 Q And to the best of your understanding, the  
16 documents were all photocopies, none were originals?

17 A That's correct.

18 Q You then went to your car --

19 A Right.

20 Q -- and drove Mr. Doery home?

21 A Right.

22 Q There was a second shredding -- I don't

1 want to use the word "incident." There was a second  
2 incidence of documents being shredded. Do you know  
3 when that occurred?

4 A No, I don't know when it occurred.

5 Q You indicated that your recollection was  
6 now refreshed that Mr. Doery had shredded a long  
7 index and that you believed the index to be an index  
8 of White House documents?

9 A That's what he told me last night. I  
10 didn't know that before my conversation with him.

11 Q Do you know whether that was an index  
12 prepared by the White House and produced to the  
13 Inspector General's office, or whether it was an  
14 index of documents prepared internally by the  
15 Inspector General's office?

16 A I don't know. I don't know.

17 Q Do you recall, during the course of your  
18 investigation, whether the White House produced to  
19 you an index of documents?

20 A I don't remember.

21 Q Do you recall whether, during the course of  
22 your investigation, anyone in the Inspector General's

1 office created an index of White House documents?

2 A If they did, I never saw it. I wasn't  
3 privy to it.

4 Q Do you have any further recollections about  
5 what that document might have been that Mr. Doery  
6 shredded?

7 A No. It was a very brief conversation.

8 Q Mr. Doery told you that the document was a  
9 duplicate, I believe, or a series of duplicates?

10 A That's right.

11 Q Do you know whether those were duplicates  
12 created by the Inspector General's office?

13 A I have no idea.

14 Q Going back to the beginning of the  
15 discussion today --

16 A Sure.

17 Q You indicated that the Inspector General's  
18 office sometimes either advises the Office of General  
19 Counsel regarding investigations or keeps them  
20 apprised in some fashion of investigations. And I  
21 believe you said that that -- that it depends upon  
22 who's being investigated and the arrangements that

1 have been agreed to between the Inspector General's  
2 office and the general counsel's office.

3 Is that a fair statement of your testimony?

4 A Yes, that's right. For instance, there may  
5 be times when attorneys are being investigated. And  
6 it's appropriate to keep the general counsel advised  
7 of the ongoing investigation, or certainly at some  
8 point, to give them a status report on how soon the  
9 thing is going to be completed. And there may be  
10 times when the general counsel's office is involved,  
11 like in the old boy inquiry where there's a status  
12 meeting involving how things are progressing.

13 So there are any number of occasions when  
14 it would be appropriate to keep the general counsel's  
15 office apprised of the status of an investigation.

16 Q It wasn't unique to this investigation?

17 A That's correct.

18 Q What kinds of arrangements were you  
19 referring to?

20 A Well, in this particular case, the  
21 arrangement was to deal with McNamara, Ken  
22 Schmalzbach or McHale who were representing the

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1 interests of the Secretary.

2 Q Would you consider that an arrangement with  
3 the general counsel's office or with the Secretary's  
4 office?

5 A With the Secretary's office. That would be  
6 an arrangement with the Secretary's office.

7 Q Are your arrangements with the general  
8 counsel's office ever formalized in writing?

9 A Well, there is a quarterly status briefing  
10 that the general counsel is given on matters of  
11 interest to the general counsel's office --

12 Q You stated --

13 A -- by the IG.

14 Q You stated that the Inspector General  
15 sometimes advises the Office of General Counsel  
16 regarding investigations depending in part upon the  
17 arrangements that have been agreed to. My question  
18 to you is whether those arrangements, whatever they  
19 might be, are ever formalized in writing?

20 A Well, and my response to you is that an  
21 example of where it's been formalized is the fact  
22 that, on a quarterly basis, the Inspector General



1 gives an update to the general counsel about pending  
2 investigations that are of interest to the general  
3 counsel.

4 Q That presumably is a report about the  
5 investigation. My question to you is whether the  
6 arrangements themselves are ever reduced to writing?

7 A Well, I'm afraid I'm not following the  
8 distinction. There's an agreement that the IG's  
9 office will give a quarterly report. That's the  
10 standard operating procedure. And so far as it's the  
11 standard operating procedure, I view it as an  
12 arrangement.

13 There may be a directive that talks about  
14 the IG's office keeping various people apprised. I'm  
15 not sure. I don't recall whether or not one exists.

16 Q With respect to specific individual  
17 investigations, was it the usual practice of the  
18 Inspector General's office to reach a written  
19 understanding with the general counsel's office?

20 A No, absolutely not.

21 Q So --

22 A In fact, I just thought of another one

1 during my tenure as counsel to the IG, in which there  
2 was ongoing discussion with the general counsel's  
3 office in connection with an important personnel  
4 action, and the general counsel's office received a  
5 copy of our report, then they wanted additional  
6 investigation done, and so on and so forth. And  
7 there was no formal written agreement there  
8 whatsoever.

9 Q So it didn't surprise you that there was no  
10 formal written agreement with respect to the White  
11 House-Treasury contacts investigation?

12 A Of course not.

13 Q You wouldn't have expected there to be?

14 A That's correct.

15 Q When you raised with Mr. Foreman the  
16 question of your participation in the investigation  
17 of the White House-Treasury contacts, do you recall  
18 what you said?

19 A I said that we're going to be -- this is  
20 the general substance of what I said. I certainly  
21 don't have a memory that would allow me to go back  
22 over a year to a specific conversation and remember

1 exactly, word for word. I said in general it was  
2 clear that the IG's office was embarking on this  
3 investigation, and that there would have to be some  
4 arrangement made to ensure that the question of my  
5 independence was handled, was dealt with  
6 appropriately.

7 Q So you initiated the discussion with  
8 Mr. Foreman out of concern for preserving your  
9 independence?

10 A Absolutely.

11 Q What was Mr. Foreman's response?

12 A He agreed with me immediately.

13 Q Was the June 27th memorandum essentially  
14 the upshot of your discussion with Mr. Foreman?

15 A Absolutely.

16 Q Did you take the opportunity to raise with  
17 Mr. Foreman the subject of a more general memorandum  
18 of understanding?

19 A I discussed that with him periodically.

20 Q Stoke the fire a little bit, make sure  
21 nobody forgets that that's something you want?

22 A That's a fair assessment.

1 Q You testified that you viewed  
2 Mr. Schmalzbach, Mr. McHale, Mr. McNamara and  
3 Mr. Knight as representing Secretary Bentsen's  
4 interests?

5 A As the head of the department in his  
6 official capacity. As opposed to Ms. Hanson or  
7 Mr. Altman whose activities were subject to review.

8 Q What was your understanding of why  
9 Mr. Bentsen drew upon these individuals for  
10 assistance in this matter?

11 A Well, they're the senior cadre of attorneys  
12 within the general counsel's office below the  
13 political appointees, and they're exceptionally fine  
14 attorneys.

15 Q So everyone in the general counsel's office  
16 of a higher rank than assistant general counsel is a  
17 political appointee?

18 A That's correct.

19 Q That presumably would be Mr. Foreman and  
20 Ms. Hanson at the time?

21 A Absolutely. Ms. Hanson was a presidential  
22 appointee. Although Mr. Foreman was not a

1 presidential appointee, he was a Republican and  
2 occupied a noncareer SES position.

3 Q Who appointed Mr. Foreman, if you know?

4 A Ms. Hanson's predecessor, Jan Archibald.

5 Q Is that Mr. or Ms. Archibald?

6 A Ms. Archibald.

7 Q Was Mr. Archibald a Bush appointee?

8 A Yes, she was.

9 Q So Mr. Foreman was, in effect, a holdover  
10 from the Bush Administration?

11 A Not in effect, in actuality.

12 Q To your knowledge, were Mr. Schmalzbach,  
13 Mr. McHale and Mr. McNamara in any way walled off  
14 from the Office of General Counsel for the purposes  
15 of this investigation?

16 A That was my understanding. They were the  
17 ones who were dealing with defense counsel, and the  
18 communications concerning this matter were with  
19 defense counsel. They were also the ones who were  
20 responsible for making production to the independent  
21 counsel. So that was my understanding.

22 The Secretary had given an order that

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1 people weren't going to talk to one another about  
2 this matter. I mean that Altman wouldn't talk to  
3 Hanson and Foreman wouldn't talk to Hanson or Altman.

4 Q Was it your understanding that part of the  
5 reason those three gentlemen were involved in your  
6 investigation was that they were already playing a  
7 role in coordinating the Department's response to  
8 other investigations of the same factual matter?

9 A That's exactly right.

10 Q You testified that you had a substantial  
11 amount of -- I believe I'm quoting now -- casual  
12 conversation with Mr. Knight, Mr. Schmalzbach,  
13 Mr. McNamara and Mr. McHale?

14 A Not with Mr. Knight. I never met  
15 Mr. Knight until July 31st, 1994.

16 Q I beg your pardon. What I took to be an EK  
17 is, in fact, an FK and was indicating that you had,  
18 you were the one who had the conversations with  
19 Mr. Schmalzbach, McNamara and McHale?

20 MR. O'CALLAGHAN: You are referring to your  
21 notes; right?

22 MR. PORTNOY: Yes.

1 BY MR. PORTNOY:

2 Q I just want to clarify whether those  
3 conversations ever encompassed the substance of  
4 testimony or other factual evidence that was in the  
5 possession of the Inspector General's office?

6 A You mean what people had testified to?

7 Q That's correct.

8 A Not that I recall.

9 Q They never asked you what people had  
10 testified to?

11 A Not that I recall, no.

12 Q And you never volunteered the information?

13 A That's correct.

14 Q You also indicated that Ms. Black was  
15 serving multiple masters at the time of this  
16 investigation?

17 A She had multiple responsibilities.

18 MR. O'CALLAGHAN: Hey, Jim, let's not  
19 characterize. I'm objecting to his characterization  
20 of serving multiple masters. Pose a question with a  
21 little less colloquial term. It will be appreciated.

22 THE WITNESS: She had other

1 responsibilities other than this particular inquiry.

2 BY MR. PORTNOY:

3 Q She had responsibilities pertaining to the  
4 investigation of the Rose Law Firm?

5 A That's correct. That was my understanding.

6 Q Was it also your understanding this limited  
7 her time available to work on the investigation of  
8 Whitewater Treasury contacts?

9 A She complained about it, yes.

10 Q Is this why you did most of the scheduling  
11 of witnesses and coordinating of witness schedules?

12 A That's right. Certainly one reason. The  
13 IG's office of Treasury also had the lead for the  
14 investigation, and you couldn't have more than one  
15 person trying to organize the schedule.

16 Q So someone had to do it and it was logical  
17 to you this would be you?

18 A Because she was busy and because we were  
19 leading the investigation.

20 Q Did anybody ever object to your playing  
21 that lead role?

22 A No, not at all.



1 Q You have no recollection of giving  
2 Mr. Schmalzbach copies of depositions prior to July  
3 18th?

4 A No, I don't.

5 Q Do you have a firm recollection that you  
6 did not do so?

7 A No. If he thinks that I did it, I have no  
8 reason not to credit his recollection.

9 Q During your meeting on July 5th at the  
10 White House, there was back-and-forth discussion with  
11 respect to --

12 A Excuse me, the meeting was in my office,  
13 not at the White House.

14 Q I stand corrected. It was with  
15 Ms. Sherburne and Ms. Black; was Ms. Cheston there?

16 A Yes.

17 Q And that was the entire company?

18 A That's right.

19 Q You said your primary concern was, I quote,  
20 sealing the deal with respect to gaining access to  
21 White House witnesses and documents?

22 A That's correct.

1 Q And you viewed the discussion of White  
2 House access to deposition transcripts from your  
3 investigation as a potential impediment to that, to  
4 sealing the deal?

5 A That's correct.

6 Q Is that why you sought to essentially leave  
7 the subject in abeyance?

8 A That's correct.

9 Q Was it your opinion at the time that you  
10 were successful in having the subject placed in  
11 abeyance?

12 A Yes.

13 Q Nobody insisted that we resolve it right  
14 now?

15 A That's a correct statement.

16 Q At any time during this meeting, did either  
17 Ms. Sherburne or Ms. Cheston expressly suggest that  
18 White House cooperation with your investigation would  
19 be conditioned upon the provision of deposition  
20 transcripts to the White House?

21 A I don't recall that. That's not the way --  
22 if that were suggested at some point during the

1 meeting, that's certainly not the way we ended up.

2 Q There was no --

3 A My memory tends to go to what the final  
4 outcome of any conversation was. I think that's  
5 pretty clear from what we've discussed here that  
6 that's how I filed things in my mind.

7 Q There was no quid pro quo, was there in  
8 your mind?

9 A No.

10 Q Is it your view that the White House  
11 cooperated fully with your investigation?

12 A Absolutely.

13 Q They provided access to all the witnesses  
14 you needed to interview?

15 A That's correct.

16 Q And they provided access to all the  
17 documents that you needed to review?

18 A That's correct.

19 Q They did so well before they received any  
20 deposition transcripts, did they not?

21 A That's correct.

22 Q You indicated that you were under the

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1 impression from the onset of your investigation that  
2 the deposition transcripts would be made public?

3 A In their entirety, yes, that's correct.

4 Q What was the basis of that understanding?

5 A That was the way it was going to be done.  
6 There was going to be a chronology, there were going  
7 to be transcripts, the transcripts were going to be  
8 appended to the chronology. The whole group of  
9 transcripts and chronology were going to be made  
10 public.

11 Q Nobody ever -- please go ahead.

12 A That was the understanding that I operated  
13 on and there is not one shred of paper regarding  
14 redactions until the week of July 25th.

15 Q No one ever suggested to you that the  
16 depositions shouldn't be made public, did they, prior  
17 to July 26th?

18 A That's correct.

19 Q And no one ever suggested to you that  
20 any --

21 A Prior to July 25th. I don't know whether  
22 it was the 25th or the 26th. I don't recall.

1 Q And no one ever suggested to you that the  
2 depositions should be redacted, or that part of the  
3 information in the depositions should be in some way  
4 kept confidential prior to that time, did they?

5 A That's correct.

6 THE WITNESS: Excuse me, can I ask who this  
7 gentleman is?

8 MR. O'CALLAGHAN: Certainly.

9 MR. PORTNOY: For the record, I'd like to  
10 note that is Richard Ben-Veniste, special counsel,  
11 Democratic special counsel.

12 THE WITNESS: I should have recognized  
13 you. I apologize. The light in here is so dim and  
14 my eyesight is failing me.

15 (Discussion off the record.)

16 BY MR. PORTNOY:

17 Q Ms. Kerner, I'm now handing you document  
18 Bates stamped number 6890. It is the June 27th, 1994  
19 memorandum from Mr. Cesca to Ms. Hanson, is it not?

20 A Yes.

21 Q Directing your attention to the second  
22 paragraph, would you read that into the record,

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1 please?

2 A "Given the nature of the inquiry, we have  
3 therefore agreed that Ms. Kerner and members of her  
4 staff will report solely to the Inspector General on  
5 any matters relating to the investigation. Neither  
6 Ms. Kerner nor her staff will communicate any  
7 information about the substance of this inquiry  
8 without specific authorization from the Inspector  
9 General."

10 Q Did you draft that language?

11 A Absolutely.

12 Q Could you explain what you meant when you  
13 said that "neither Ms. Kerner nor her staff will  
14 communicate any information about the substance of  
15 this inquiry without the specific authorization" --  
16 without specific authorization from the Inspector  
17 General."

18 Did you mean that you were in any way  
19 precluded from discussing witness scheduling?

20 A No, I didn't mean that.

21 Q Did you --

22 A I meant the factual results of the

1 inquiry. That was what I was referring to. That's  
2 what I had in my own mind when I used the words  
3 "substance of the inquiry."

4 Q So when you spoke of the substance of the  
5 inquiry, you were intending to exclude from this  
6 limitation procedural matters?

7 A Absolutely.

8 Q Did you anticipate when you drafted this  
9 memorandum that you would need to have coordination  
10 with people outside the Inspector General's office  
11 regarding procedural matters?

12 A That's correct.

13 Q So it was the intent, your intent when you  
14 drafted this memorandum, to permit those kinds of  
15 communications?

16 A That's correct. And Mr. Cesca was well  
17 aware that I was having such communications.

18 Q Turning now to the first sentence in that  
19 paragraph. You state that "Ms. Kerner and members of  
20 her staff will report solely to the Inspector General  
21 on any matters relating to the investigation."

22 When you said "report," were you referring

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1 to an institutional relationship; in other words,  
2 your reporting hierarchy within the Treasury  
3 Department?

4 A Well, when I said "report" --

5 MR. O'CALLAGHAN: I just want to note for  
6 the record that this has already been covered. Asked  
7 and answered. But go ahead.

8 THE WITNESS: When I said "report," I had  
9 in mind the normal sorts of things that go into a  
10 subordinate/supervisor relationship. Ordinarily,  
11 when you report to someone, they can ask you  
12 questions about the status of your work. They can  
13 ask you -- they can direct the direction of your  
14 work. They can guide you in how you perform your  
15 work.

16 That is what I meant when I said I would  
17 not report to anyone except to the Inspector  
18 General. I was not going to take any direction on  
19 this from Jean Hanson. I was not going to take any  
20 direction from Dennis Foreman. I was not going to  
21 give them any information, nor was I going to do that  
22 with regard to anyone else in the general counsel's



1 office.

2 BY MR. PORTNOY:

3 Q So you were referring to the employment  
4 relationship; is that a fair summary?

5 A I suppose so. I hesitate to say yes. I  
6 don't know if that includes everything. It's not  
7 just employment. I mean I couldn't say that I was a  
8 friend of them and would give them information. I  
9 mean this was a Chinese wall between me and the  
10 people who were under investigation.

11 Q You stated that you drew this memorandum  
12 based upon your knowledge of memoranda of  
13 understanding that were in place at other agencies?

14 A That's correct.

15 Q Did you actually review those memoranda?

16 A Oh, I've had copies of those for years and  
17 had a full set of them because I was interested in  
18 developing a permanent MOU between the IG's office  
19 and the general counsel's office on the reporting  
20 chain of the counsel to the IG.

21 Q Was it your intent that your reporting  
22 relationship, for the purposes of this investigation,

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1 would reflect the same kinds of limitations as the  
2 reporting relationship in place at other agencies?

3 A The same kind of safeguards to ensure my  
4 independence.

5 Q Are you satisfied that you achieved that  
6 goal?

7 A Absolutely.

8 Q Mr. O'Callaghan inquired into your  
9 discussions with counsel for some of the Treasury  
10 witnesses, in particular Mr. Steiner. Did you ever  
11 tell counsel for a witness what questions the  
12 investigators were going to ask?

13 A Not the specific questions, no. As I  
14 indicated earlier today, there was a question about  
15 the diaries that came up, and how the diaries would  
16 be handled, and I had a conversation with  
17 Mr. Weingarten, as well as Mr. Altman's attorney, in  
18 which I made it very clear to both of them that they  
19 would have to answer questions about the diaries. I  
20 have always considered the diaries to be an important  
21 part of the IG inquiry.

22 Q But you didn't craft the questions for the

1 investigators, did you? They asked their own  
2 questions?

3 A I prepared questions. I sent them forward  
4 to the investigators. Whether or not they chose to  
5 use them was their decision.

6 Q So you didn't really know what questions  
7 the investigators would ask in advance?

8 A Not in advance, that's correct.

9 (Discussion off the record.)

10 THE WITNESS: I'm happy to stay here as  
11 long as you need me.

12 MR. O'CALLAGHAN: Thank you very much.

13 BY MR. PORTNOY:

14 Q I believe you indicated during your  
15 testimony that there was some discussion as to  
16 whether White House witnesses would be asked who they  
17 told about information or who the second person might  
18 have told?

19 A The question was the second person, whether  
20 we'd go up the chain or down the chain, as the case  
21 may be.

22 Q And that some kind of agreement was reached

1 with respect to a limitation not to go beyond a  
2 certain level on the chain?

3 A That's correct.

4 Q Do you know who reached that agreement on  
5 behalf of your office?

6 A Well, I think that was what Jim Cottos  
7 wanted.

8 Q And do you know who reached that agreement  
9 on behalf of the witnesses?

10 A On behalf of the witnesses, I think it was  
11 Jane Sherburne.

12 Q Do you know whether it might have been  
13 private counsel for the witnesses?

14 A It might have been. I don't remember that  
15 I had much involvement in that issue. I could be  
16 wrong, but I don't recall my having much involvement.

17 Q So you don't know whether the --

18 A I think what you are saying is refreshing  
19 my recollection. This is why I didn't have much  
20 involvement -- you are 100 percent correct -- the  
21 issue arose during the course of depositions in which  
22 private counsel objected to the questions being asked

1 of who their clients told, and then, who their  
2 clients conveyed information to, and whether or not  
3 their clients knew whether the person they conveyed  
4 information to had conveyed it to someone else.

5 That's how I think the question arose. And  
6 I think that it was then quickly settled because I  
7 don't think Jim Cottos wanted to go beyond knowing to  
8 whom a White House person related the information.  
9 And so the agreement was reached that that would be  
10 the limit on what we would ask.

11 Q And no members of the White House counsel's  
12 office were present at your depositions, were they?

13 A No, they weren't.

14 Q So the agreement couldn't have been reached  
15 with someone from the White House counsel office,  
16 could it?

17 A No, I don't know that I didn't discuss it  
18 with Jane Sherburne. I don't remember one way or the  
19 other whether or not it was discussed with Jane  
20 Sherburne. It may have been. It may not have been.  
21 I don't recall. I don't have any paper in my files  
22 concerning that.

1 Q Mr. McHale or lawyers under his direction  
2 prepared comments on the draft report that your  
3 office provided to Secretary Bentsen?

4 A That's correct.

5 Q You stated that Mr. McHale's comments were,  
6 and I quote, lawyer-like.

7 A They were the sort of comments lawyers  
8 make, you know, they go to a transcript and the  
9 chronology doesn't reflect the exact wording of the  
10 transcript, or the order of the chronology within a  
11 paragraph is not the same as what it is in the  
12 transcript. Those are the sorts of comments,  
13 technical comments that he was making, always typed  
14 back to the transcripts.

15 So it wasn't just we'd like you to say  
16 this, could you please say that. It was we believe  
17 this paragraph is more accurate -- can be more  
18 accurately written to reflect the transcript if it's  
19 written this way.

20 Q Your report was largely a chronology, was  
21 it not?

22 A That's correct.

1 Q You didn't draw conclusions about the  
2 propriety of conduct?

3 A That's absolutely right.

4 Q And you always intended to append the  
5 depositions to your report?

6 A That's correct.

7 Q So anyone looking at the report, you  
8 anticipated, would also have access to the  
9 depositions?

10 A That's correct.

11 Q Do you have any reason to believe that  
12 Mr. McHale was trying to slant the report in any way?

13 A I have no reason to believe that he was  
14 trying to slant the report. Certainly nothing within  
15 the comments he gave me would indicate any such  
16 motivation on his part.

17 Q And any such effort would be apparent by  
18 looking at the depositions, would it not?

19 A That's correct.

20 Q So there was no way that he could have  
21 gotten away with slanting the report, even if he  
22 wanted to?

1 A That's correct.

2 MR. O'CALLAGHAN: That's in your opinion;  
3 right?

4 THE WITNESS: Well, in my opinion, I think  
5 it's a factual statement. I don't think it's just an  
6 opinion.

7 BY MR. PORTNOY:

8 Q Did you ever learn that Secretary Bentsen  
9 had issued instructions that the Treasury Department,  
10 other than the Inspector General's office, shouldn't  
11 do any independent factfinding regarding the White  
12 House-Treasury contacts during the course of your  
13 investigation?

14 A Well, not during the course of my  
15 investigation. I know that no one was supposed to do  
16 any independent factfinding during the course of  
17 Fiske's investigation. And then we took over to do  
18 the management review. That was my understanding.  
19 No one was going to do --

20 Q Are you aware of any limitations on  
21 independent factfinding imposed by Secretary Bentsen  
22 on Treasury Department personnel that applied during



1 the course of your investigation?

2 A I don't know if there was a memo that said  
3 don't do anything while the IG's office was doing  
4 this. No one was doing anything, to the best of my  
5 knowledge. And there are other directives on the  
6 books that would prevent people from doing an  
7 independent inquiry once the IG's office is involved.

8 Q Did you ever discuss with the Office of  
9 Government Ethics whether deposition transcripts  
10 should be provided to the White House?

11 A No.

12 Q Are you aware whether anyone at the Office  
13 of Government Ethics had an opinion on the subject?

14 A No.

15 Q You testified about four telephone calls on  
16 the 23rd of July?

17 A That's correct.

18 MR. O'CALLAGHAN: Four that you knew about.

19 THE WITNESS: That I recalled.

20 BY MR. PORTNOY:

21 Q You indicated that you have an impression  
22 that the final call, the fourth call, during which

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1 the decision to release the transcripts was  
2 articulated, occurred before you ate dinner. Is that  
3 your recollection?

4 A I guess that that is an impression I have  
5 but I could be totally wrong about that. I could be  
6 totally wrong about that.

7 Q Do you generally eat early?

8 A No. I mean, this is the summer. I mean,  
9 life is easy. What can I say. It's light until very  
10 late at night. We were in the middle of July or the  
11 end of July, and I do not recall the timing.

12 And frankly, I might add, I don't see the  
13 significance or the importance of the timing of the  
14 calls. I've never understood why anybody cares what  
15 time the calls occurred. Maybe there's something I  
16 don't know about.

17 Q Do you know who Mr. Dougherty delivered the  
18 deposition transcripts to?

19 A No, he may have told me at one time. I  
20 don't recall it now.

21 Q Do you know why he delivered them?

22 A I think he took them over to the White

1 House. The Old Executive Office Building.

2 Q Do you know what time that was?

3 A My impression was that it was early  
4 evening, but I could be wrong about that.

5 Q Have you ever discussed the matter with  
6 Mr. Dougherty?

7 A I have discussed the matter with  
8 Mr. Dougherty. I don't know that he remembers when  
9 he took them over. The one thing I can be certain of  
10 is that this did not occur in the morning. And I am  
11 also concern that it was over by nightfall. So that  
12 leaves us at most, you know, eight hours of time  
13 during which the events transpired.

14 Q You didn't see Mr. McHale's letter before  
15 the documents were conveyed to the White House, did  
16 you?

17 A That's absolutely correct.

18 Q You indicated your belief was that  
19 Mr. Cutler and Mr. Bentsen actually spoke to each  
20 other either on the 22nd of July or the 23rd of July,  
21 around that time?

22 A That's correct.

1 Q Did somebody actually tell you that  
2 Mr. Cutler and Mr. Bentsen had a conversation, or is  
3 that just an assumption?

4 A No, it's not an assumption. What I recall,  
5 and I may be completely wrong in the way it was  
6 phrased to me or it may have been phrased to me in  
7 the way I recall it, but it was, you know,  
8 miscommunicated or not understood by Steve who  
9 communicated it to me was that Cutler had spoken to  
10 Bentsen. That's what I understood Steve to say.

11 Now, I might be mistaken. My recollection  
12 of what he said might be mistaken, or the facts as  
13 relayed to him might be mistaken. I don't know. But  
14 that was my impression, that there was a direct  
15 communication between Cutler and Bentsen, but you  
16 know, we're playing telephone tree here or tag, or  
17 whatever you call it, in which I'm down at the end of  
18 the line and who knows what occurred up at the top.

19 Q You had objections to the phrasing of the  
20 draft of the August 3rd letter from Mr. Cutler to  
21 Senator Riegle?

22 A As it was faxed to me, I had objections,

1 yes.

2 Q And your objections were that the letter  
3 seemed to suggest a quid pro quo between the  
4 Inspectors General and the White House?

5 A The letter as I recall, because I didn't  
6 keep a copy of it, the words "quid pro quo" may have  
7 been used in the draft. It's not a phrase that's  
8 unfamiliar to me. I mean when you use it, it seems  
9 to resonate at some point in my mind, but the general  
10 gist of it though, without having my memory refreshed  
11 by what you say, is that it seemed to suggest that  
12 there was an agreement to turn over the transcripts  
13 in return for the cooperation of the White House.

14 And that was --

15 Q Did you raise -- please continue.

16 A And that was not my recollection of the  
17 events, so I objected to the wording of the letter.

18 Q And you raised that concern with  
19 Ms. Sherburne?

20 A Absolutely.

21 Q Was she amenable to making the changes that  
22 you sought?

1 A Yes.

2 Q I'd like you to look at document number  
3 1163, which is a copy of the letter from Mr. Cutler  
4 to Senator Riegle, and tell me, please, if the final  
5 version of the letter adequately addressed your  
6 concerns about the draft.

7 (Witness reviewed the document.)

8 A Yes.

9 Q Is it your understanding that Ms. Kulka was  
10 apprised of the possibility that there might be  
11 confidential information in the deposition  
12 transcripts by Ms. Black?

13 A I don't know that Ms. Black apprised her  
14 that there might be confidential information. I  
15 think she asked Ms. Kulka to look at the transcripts  
16 to see if there was such information. I don't know  
17 what their conversation was. I don't know on what  
18 basis Ms. Black decided to contact Ms. Kulka. She  
19 never called me and said, you know, Francine, on page  
20 43 of this deposition looking at it again I think  
21 there might be some confidential information. No, in  
22 fact, she went to Ms. Kulka globally to say that

1 anywhere in these depositions there might be  
2 confidential information and would Ms. Kulka be so  
3 kind as to look at it and decide whether or not there  
4 was such information that should be redacted. So she  
5 never raised a specific concern with me that on  
6 reflection there was something that she thought  
7 needed to be redacted.

8 Q At any time prior to contacting Ms. Kulka,  
9 did Ms. Black raise with you a general concern that  
10 the depositions contained confidential information  
11 that needed to be redacted?

12 A Never.

13 Q When did you first learn that Ms. Black and  
14 Ms. Kulka were concerned that the depositions  
15 contained confidential information?

16 MR. O'CALLAGHAN: Jim, these questions have  
17 already been asked and answered. So have the  
18 previous two questions. I was going to let you go,  
19 but unless you have a distinction to make I request  
20 that you don't ask the same questions that duplicate  
21 the record. Are you going to rephrase the question?

22 THE WITNESS: Not until the week of July

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1 25th.

2 MR. O'CALLAGHAN: I asked you to rephrase  
3 the question. You can't keep repeating the record.  
4 If you have a distinction to make, a clarifying  
5 response you want to get, that's fine, but if you are  
6 going to continue to repeat the questions that have  
7 already been asked without making a distinction, I'm  
8 going to continue to lodge objections.

9 MR. PORTNOY: Mike, I will simply state  
10 that I sat here for something like seven hours while  
11 you built the record your way and I think I'm  
12 entitled to a little leeway to go into it my way.  
13 I've been most patient with the direct examination  
14 and I would request the same forbearance with respect  
15 to the cross-examination or the follow-up direct or  
16 whatever the heck it is we're doing here.

17 MR. O'CALLAGHAN: I'm just asking that you  
18 don't repeat it. That's all. There was seven hours  
19 worth. That's a good point. We don't need to hear  
20 it again. That's my point exactly.

21 BY MR. PORTNOY:

22 Q When did you tell Ms. Sherburne that the



1 White House -- excuse me, that the RTC might want to  
2 redact the depositions?

3 A I don't have an independent recollection,  
4 but I considered it an important matter, and I  
5 certainly told people right away as soon as I  
6 learned.

7 Q Would that have been before the meeting at  
8 the RTC on the 28th of July?

9 A Absolutely. Absolutely.

10 Q And the White House reaction was that the  
11 depositions should be released without redactions?

12 A That's correct.

13 Q To your knowledge, did anyone at the White  
14 House express that view to anyone at the RTC?

15 A I don't know.

16 Q To your knowledge, did Ms. Sherburne convey  
17 that view to anybody other than you?

18 A I'm sure she conveyed it to the Office of  
19 the Secretary, Treasury.

20 Q Ms. Kerner, did anybody try to limit the  
21 scope of your investigation?

22 A No.

1 Q Did anybody try and restrict the witnesses  
2 that could be interviewed?

3 A No.

4 Q With the exception of the discussions  
5 between Mr. Cottos and the White House witnesses, did  
6 anybody try and limit the questions that could be  
7 asked?

8 A No.

9 Q Is it your view that your -- the  
10 investigation was complete and thorough?

11 A That's my view.

12 Q Is there anybody additional that you think  
13 needed to be interviewed?

14 A I would have liked to have seen Mr. Levy  
15 and Mr. Newman interviewed, personally, but  
16 Mr. Cottos decided against that.

17 Q So the investigators decided that they had  
18 taken enough depositions?

19 A That's correct.

20 Q Do you have any reason to believe that the  
21 integrity of your investigation was diminished in any  
22 way?

1 A By?

2 Q By any of the events of July 1994?

3 A No -- the report was relied upon by members  
4 of Congress repeatedly in their questioning of  
5 witnesses.

6 Q Is it your view that anyone in the Treasury  
7 Department or elsewhere in the Administration sought  
8 to influence either the conduct or the results of  
9 your investigation?

10 A No, that's not my view. My view is that we  
11 operated independently at all times.

12 Q You testified that it was your view on July  
13 23rd that it was -- strike that.

14 Is it your view that it was appropriate for  
15 the White House to receive copies of the deposition  
16 transcripts on July 23rd?

17 A Yes.

18 Q Is it your view that it was appropriate for  
19 Secretary Bentsen to receive a draft of the Inspector  
20 General's report on the 22nd of July?

21 A Yes.

22 Q Is it your view that it was appropriate for

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1 the Office of General Counsel and more specifically  
2 for Mr. Schmalzbach to receive copies of the  
3 deposition transcripts on the 18th of July?

4 A Yes, it is my view that it was appropriate.

5 MR. PORTNOY: That's all I have. Thank  
6 you.

7 EXAMINATION

8 BY MR. O'CALLAGHAN:

9 Q I have a couple follow-ups. When was it  
10 decided to provide Secretary Bentsen with copies of  
11 the draft report on the -- that were delivered on the  
12 22nd?

13 A I don't recall. I didn't give him the copy  
14 of the draft report that was done by Mr. Cottos's  
15 office.

16 Q Were you part of any discussions regarding  
17 whether or not the Secretary's office should be  
18 provided with a draft of the report on the 22nd?

19 A I don't recall ever being consulted on  
20 that, no.

21 Q Have you ever heard why it was given to  
22 Secretary Bentsen's office on the 22nd?

1       A   Well, the hearings were starting on  
2 Tuesday. We were supposed to have our final report  
3 complete by that date, the 22nd. We couldn't get it  
4 done in time, and therefore, giving him a draft would  
5 at least give him a basis on which to meet whatever  
6 occurred the following week in connection with the  
7 hearings.

8       Q   To help him in preparing for his testimony  
9 before Congress?

10      A   I don't know if it was only to prepare for  
11 his particular testimony. It was to prepare and be  
12 prepared for the hearings in general. There were  
13 many witnesses that were going to be testifying at  
14 the hearing and it was appropriate for the Secretary  
15 to know in advance, have an idea in advance what  
16 those witnesses would be saying. They were, after  
17 all, employees of the executive branch, many of them  
18 under his direct supervision, and this was an  
19 administrative management review, any criminal action  
20 having been declined.

21      Q   Were copies of transcripts attached to the  
22 draft that was supplied to the Secretary?

1       A   No, it wasn't because they had already been  
2 given to Mr. Schmalzbach. So there was no need to  
3 provide the transcripts, just the chronology.

4       Q   Who in the Secretary's office had a chance  
5 to review the transcripts?

6       A   I have no idea.

7       Q   How about the draft report?

8       A   No idea.

9       Q   Have you ever been told?

10      A   Well, I certainly know that Ken Schmalzbach  
11 looked at them, Steve McHale looked at them, Bob  
12 McNamara looked at them. Beyond those three I don't  
13 know who looked at the transcripts and I don't know  
14 that each one of those people looked at all of the  
15 transcripts. I have no way of knowing that.

16      Q   Are you aware that anyone characterized  
17 suggestions to the draft that you prepared as  
18 corrections being provided by the Secretary's review  
19 team?

20      A   Excuse me?

21      Q   Are you aware if anyone made a  
22 characterization of suggested edits that you made to

1 the draft?

2 A With regard to what suggested edits? The  
3 ones that I produced that I faxed from Kinko's?

4 Q Any suggested edits.

5 A I've never heard that. And I can tell you  
6 that those suggestions that I made that I faxed from  
7 Kinko's were entirely my own assessment. I did not  
8 consult anyone with regard to those suggestions, they  
9 were my entire complete work product, me, myself and  
10 I.

11 Q I was just asking for -- if you'd heard  
12 that characterization.

13 A No, I've never seen that characterization.  
14 Nor did I see the suggestions that the general  
15 counsel's office wanted to make in terms of editing  
16 before that was handed to me. They never consulted  
17 me on what their suggestions would be in advance of  
18 handing them to me, nor did I ever see what OGE would  
19 suggest in advance of their submitting possible edit  
20 changes.

21 Q Did you suggest edit changes other than the  
22 ones that we reviewed today with the Kinko's fax

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1 line?

2 A Well, I was at the meeting on the 28th, I  
3 may have suggested changes then. I have no way of  
4 knowing what they were. That's the only written  
5 document that I ever created suggesting changes. I  
6 also submitted other suggestions for changes which  
7 you haven't asked me about today that were in the  
8 production.

9 Q What other suggested changes did you make?

10 A Well, can I look through and tell you the  
11 Bates stamp number of the document.

12 Q Independently --

13 A It goes on for pages.

14 Q It's to the draft report?

15 A Yes.

16 Q Is it to --

17 A It's to the chronology.

18 Q Are these handwritten changes?

19 A No. They're typewritten.

20 Q It would be helpful if you would give us a  
21 Bates stamp number.

22 A They're getting my copy, so it's to the new



1 Bates stamp numbers.

2 Q The ones you're providing to us?

3 A Yes.

4 (Pause.)

5 It's 565, 566, 567, 568, 569 and 570. I

6 believe there's more than one copy in here, but

7 that's the first copy that I placed my hands on.

8 (Pause.)

9 Oh, there is something else that I

10 should -- oh, never mind. Never mind. That's fine.

11 Q Other than the document you just identified

12 and the document I showed you earlier --

13 A I'm not aware of any other suggestions I

14 made that have been -- that still exist in

15 typewritten form.

16 Q Did you provide any edits suggested by

17 Mr. Schmalzbach, McHale -- sorry, by Mr. Schmalzbach,

18 Mr. McHale, Mr. McNamara to anyone before the big

19 edit meeting that you talked about earlier?

20 A I'm really sorry, Mike, I'm sorry.

21 Q I know it's getting late.

22 A What was your question?

1 Q The question is whether you provided copies

2 of the pages Mr. McHale gave you of the suggested

3 edits --

4 A I think I gave them to Jim Cottos. I think

5 I would have sent him a copy.

6 Q Before the meeting?

7 A Yeah, I think so.

8 Q Okay. Thanks.

9 A Because he made notes on the -- he made

10 notes at some point. Maybe he made the notes at the

11 meeting, but I know he made notes.

12 Q Okay. Your recollection is that you

13 probably gave him a copy before?

14 A I think I did, but if I didn't, there were  
15 enough copies there for them to look at at the time.

16 Q So you distributed copies of it at the  
17 meeting?

18 A Yeah, how else were we going to analyze  
19 it? Everybody had a copy of the draft report in  
20 front of them as we went over it. Both IGs signed  
21 the report and as far as I know they each reviewed  
22 every word. And I might also add that I've never

1 been involved in an editing process that was that  
2 rigorous, in which an entire team of people would  
3 analyze the chronology to ensure its accuracy.

4 Q If I already asked this, please let me  
5 know. With regard to the Riegle letter of August  
6 3rd, the one that you made changes to or suggested  
7 changes to directed toward Jane Sherburne, do you  
8 recall whether or not Ms. Black was given a copy of  
9 the letter to make changes to it, whether she had  
10 additional changes?

11 A The more I sit here -- the longer I sit  
12 here, the clearer my memory becomes and I believe  
13 that I must have faxed her a copy of it or in some  
14 way engaged her interest in it.

15 Q But you don't specifically recall?

16 A Well, the more I think about it, the more I  
17 have a recollection of wanting her assistance in  
18 dealing with the White House on the wording of the  
19 letter and involving her in the process.

20 Q Do you recall a conversation about problems  
21 with the letter having already been faxed and any  
22 problems with getting a copy of the letter so that

1 you could make changes to it before it was delivered  
2 to Senator Riegle?

3 A You know, it's amazing about refreshing  
4 one's recollection, which is why it's so important  
5 that people talk to one another. I seem to recall  
6 Jane saying something to me about how the letter was  
7 already up on the Hill, but I don't believe it was  
8 ever delivered in other than its final form.

9 Q Do you recall having a conversation with  
10 her about trying to get the letter before it went out  
11 so that you could make revisions to it?

12 A I insisted that revisions be made. They  
13 were made.

14 Q Do you now recall whether Ms. Black had  
15 specific revisions that she wanted to be addressed?

16 A I don't know whether she did or she  
17 didn't. If you are asking me do I have a  
18 recollection of her being dissatisfied with the final  
19 product, I have no recollection of that.

20 Q That's not the question, no.

21 A Well, I don't have any recollection of our  
22 having a disagreement over the final wording of the

1 letter. That may not be the question you asked, but  
2 it is a point I want to make.

3 Q Do you have a recollection of whether or  
4 not she had revisions she wanted to make in addition  
5 to the ones that you wanted to make?

6 A That's possible. I don't have an  
7 independent recollection of that.

8 Q Do you recall whether she expressed a  
9 desire to make sure the letter didn't make an  
10 indication that there had been an initial agreement  
11 that there had been a point where there was an  
12 agreement to turn over the transcripts but then that  
13 agreement lapsed?

14 A I don't recall the letter ever reading that  
15 way. I certainly was in full agreement with  
16 Ms. Black that the letter shouldn't suggest in any  
17 way that there was a previous agreement to turn over  
18 the transcripts prior to July 23rd.

19 Q Before speaking with Ms. Black about the  
20 letter, had you --

21 A I don't recall that we had a conversation.  
22 I believe we did. I believe we did. But if you want

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1 to pursue it and see if you can refresh my  
2 recollection further, that's fine.

3 Q The documents that were used for the  
4 investigation, for the IG investigation, that were  
5 received from Treasury and the White House.

6 A From --

7 Q That involved Treasury documents and White  
8 House documents.

9 A That the IG's office received -- the IG's  
10 office received documents from the White House. We  
11 received documents from RTC and we received documents  
12 from the Department.

13 Q And where were those -- from those three  
14 agencies, where were the documents initially  
15 transmitted from the originating agency or government  
16 entity? Where did RTC send the documents?

17 A I think RTC sent them two places, one to me  
18 and one to OI. I picked up the documents from the  
19 White House and from the Department as well.

20 Q And where were they housed in the  
21 Department?

22 A Before I got them?

1 Q Correct.

2 A They were housed in Steve McHale's office.

3 Q Did you supply copies of all the documents  
4 to the RTC or were you the person who was in charge  
5 of controlling the documents?

6 A The documents -- I was not the sole -- let  
7 me answer the question this way. I was not the  
8 sole -- my office was not the sole repository of any  
9 of these sets of documents. Now, the White House  
10 documents -- I had a copy -- at the end of the day,  
11 after delivery had been made of the documents, I had  
12 one set of the general counsel's documents, one set  
13 of the RTC documents and one set of the White House  
14 documents. I know that Jim Cottos had one copy of  
15 each of those, at least one copy.

16 Whether or not he made another copy to give  
17 to RTC, I don't recall.

18 Q Did Ken Schmalzbach or Mr. McHale or  
19 Mr. McNamara have copies of those documents also?

20 A They had -- Steve McHale had gone over to  
21 look at the White House documents. I don't know if  
22 he made copies of them. They certainly had copies of

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1 the Department's production. They were responsible  
2 for having pulled it together.

3 Q So they basically had all the information  
4 that you had?

5 A No, they didn't have the RTC documents, not  
6 that I'm aware of.

7 Q Were they ever given access to that?

8 A Not by me.

9 Q Were they given access to that by anybody?

10 A Not that I'm aware of.

11 Q Did they ever ask you for it?

12 A No.

13 Q And I only have a couple more to go and  
14 I'll be done soon.

15 A This is actually fun.

16 Q I appreciate your patience.

17 I asked you about this in one way or  
18 certain fashion, Mr. Portnoy has also asked you about  
19 the limitation of the questioning during the  
20 interview for the investigation, with regard to, you  
21 know, who the told-ee told I guess is how it's been  
22 characterized.



1 Mr. Portnoy asked you if the only person  
2 that -- or the only restrictions that had been put on  
3 questioning might have involved an incidence with  
4 Mr. Cottos and one of the attorneys for the -- one of  
5 the private attorneys for one of the White House  
6 witnesses, and you said yes, that was the only one  
7 that you were aware of?

8 A No, I think there was a general agreement  
9 at some point that the investigators wouldn't ask --  
10 go beyond who the told-ee told, to use your  
11 phrasing. It's not a bad way to put it, actually.  
12 There was a general agreement that involved all of  
13 the White House witnesses. I don't know that that  
14 was restricted to just one White House witness. That  
15 wasn't -- that's not my recollection.

16 Q Okay. And is it your recollection that  
17 generally that would have been reached with the White  
18 House counsel's office?

19 A It may have been, it may not have been.

20 MR. PORTNOY: I believe Ms. Kerner has  
21 testified that she didn't involve herself in  
22 negotiating any of the agreements.

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1 MR. O'CALLAGHAN: I'm asking about her  
2 knowledge of it.

3 MR. PORTNOY: You asked would it generally  
4 had been. I wouldn't object to a question about do  
5 you know if it was. That's different than would it  
6 generally have been.

7 MR. O'CALLAGHAN: That has nothing to do if  
8 was she part of the agreement.

9 THE WITNESS: The basic bottom line is I'm  
10 not the best person to ask about it. It didn't arise  
11 with me. I have very little recollection about it  
12 and I know that at the end Jim Cottos was satisfied  
13 with that. If he wanted to go beyond that, that was  
14 something for him to pursue. Nobody gave him an  
15 order or direction that he couldn't pursue it  
16 further, so he was satisfied with that, with that  
17 decision, however it was reached.

18 BY MR. O'CALLAGHAN:

19 Q And I wasn't intimating that anything else  
20 was the case. The question that was asked you  
21 earlier was limiting the universe to Mr. Cottos's  
22 discussions with one of the White House attorneys,

1 and I was trying to see if there was any other  
2 discussions that might have occurred with regard to  
3 limiting questioning to White House witnesses.

4 A You know, it's really -- I think we're both  
5 tired, but limiting -- the last thing you said was  
6 limiting questioning to White House witnesses?

7 Q No, limiting the types of questions that  
8 the would have been asked witnesses with regard to  
9 the contacts.

10 A I know of no other limitation other than  
11 the ones that we've gone over here today.

12 Q But the question is -- and I know it's  
13 late -- is whether or not the only source of  
14 discussions on that subject were with Mr. Cottos and  
15 a personal attorney for one of the White House  
16 witnesses?

17 A I don't recall. There may have been a  
18 discussion with Jane Sherburne. I don't recall one  
19 way or the other.

20 Q Okay. I just wanted to make sure it  
21 wasn't -- he put a limitation on it and there's a  
22 possibility --

1 A I don't like -- it is late in the day, but  
2 mistakes can occur at the late of the day and I think  
3 I heard you say -- I just wanted to make sure that  
4 you didn't put a limitation on it.

5 Q No, that there wasn't a limitation put on  
6 it by the nature of Mr. Portnoy's question. That it  
7 was possible that there were other discussions that  
8 addressed limiting the scope of the questioning other  
9 than Mr. Cottos's discussion with private counsel for  
10 White House witnesses.

11 A I just don't know how to answer the  
12 question because at this point I'm lost, completely  
13 lost as to what the question is.

14 Q That's fine. I think you responded to it  
15 anyway, so it's fine.

16 A I hope so.

17 Q Before the 18th of July when you provided  
18 Mr. Schmalzbach with copies of the transcripts, had  
19 you ever approached Mr. Cesca about getting his  
20 approval of releasing transcripts to anyone in the  
21 general counsel's office?

22 A I don't have a recollection of having given

1 Mr. Schmalzbach copies before the 18th of July.

2 Q That's not the question. The question is  
3 whether before the 18th of July you approached  
4 Mr. Cesca about getting permission to give  
5 Mr. Schmalzbach or give anyone copies of the  
6 transcripts?

7 A Well, I think as we both saw there is a  
8 note in Ken Schmalzbach's file suggesting that I  
9 agreed on July 8th to discuss the matter with the  
10 IG's office.

11 Q Well, the question is did you do that  
12 before July 18th, that's all I want to know.

13 A I don't have any independent recollection  
14 of that.

15 Q So you don't remember?

16 A I don't remember one way or the other. It  
17 would not surprise me if someone had a recollection  
18 that I had. I certainly would have no reason to  
19 quarrel with them.

20 MR. O'CALLAGHAN: I have no further  
21 questions

22 EXAMINATION

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1 BY MR. PORTNOY:

2 Q I have two short ones. To the best of your  
3 recollection, did anyone ever accuse you of being,  
4 "part of Jean Hanson's defense team" during the  
5 course of this investigation?

6 A Not to my face.

7 Q Did you ever tell anyone --

8 A I don't know what basis on which anyone  
9 would reach that conclusion. If you saw the  
10 questions that I prepared for Ms. Hanson I don't see  
11 how anyone could believe that to be the case.

12 Q Did you ever tell anyone that you were  
13 serving more than one client during the course of  
14 this investigation?

15 A Serving more than one client?

16 Q That's correct.

17 A I have absolutely no recollection of having  
18 made that statement and it is not a statement that I  
19 could imagine myself making.

20 MR. PORTNOY: That's all. Thank you.

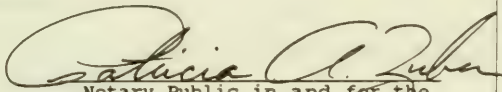
21 MR. O'CALLAGHAN: Thank you very much.  
22 Appreciate your patience.

1 (Whereupon, at 7:26 p.m., the deposition  
2 was recessed.)  
3  
4

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5 FRANCINE J. KERNER  
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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires FEBRUARY 14, 2000



**DEPOSITION OF MARSHA SCOTT  
IN RE: S. RES. 120**

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**WEDNESDAY, NOVEMBER 1, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of MARSHA SCOTT, called for examination pursuant to notice of deposition, at 9:33 a.m. in Room 640-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.  
Majority Special Counsel  
ALICE S. FISHER, Esq.  
Majority Associate Special Counsel  
GLENN F. IVEY, Esq.  
Minority Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

STUART F. PIERSON, Esq.  
Davis Wright Tremaine  
1155 Connecticut Avenue, NW  
Washington, DC 20036  
On behalf of the Deponent.

## CONTENTS

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WITNESS

EXAMINATION

Marsha Scott

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## PROCEEDINGS

Whereupon,

MARSHA SCOTT

was called as a witness and, having first been duly sworn, was examined and testified as follows:

## EXAMINATION

BY MR. CHERTOFF:

Q Before we proceed, Ms. Scott, let me just give you some preliminary observations about the nature of what we're doing here. This is a deposition that's conducted pursuant to Senate Resolution 120, which establishes a special committee to conduct an investigation into certain matters involving Whitewater Development Corporation, and other related entities and matters. And you're here testifying in a deposition pursuant to that resolution.

Now, the resolution is taken in anticipation of public hearings. I can't tell you now whether you'll be called to testify at the public hearings or not. In any event, the deposition will be held committee confidential until such time as the

4

hearings begin. Once the hearings begin, some or all or parts of deposition may become public, and in any event, at the end of the day, I think we will eventually make everything part of the public record.

Now, we're going to proceed by my asking you a series of questions which you're obliged to answer under oath. If you don't understand a question, let me know and I'll rephrase it. If you want to take a break to talk to your lawyer or for some other reason, let me know and we'll stop the deposition.

MR. CHERTOFF: Let me ask you to just have counsel identify himself for the record.

MR. PIERSON: My name is Stuart Pierson. I'm with the law firm of Davis, Wright, Tremaine, Washington, D.C.

BY MR. CHERTOFF:

Q The stenographer is going to prepare a record of this deposition. You will have an opportunity, at this point I would say probably just about as soon as it's ready, to come in with your

1 lawyer to make any corrections you want to make and  
2 sign the deposition. If you make corrections that  
3 are other than just clerical or ministerial  
4 corrections, that could in itself be a basis to bring  
5 you back and redepose you.

6 If you are called to testify, approximately  
7 four days before your appointed date to appear, you  
8 will get a copy of the deposition on the condition  
9 that you agree to keep the deposition between  
10 yourself and your counsel, and not to distribute it  
11 to anybody else.

12 Now, obviously your attorney or Mr. Ivey,  
13 or me if Mr. Ivey is asking questions, can object to  
14 the questions. Let us get it all out on the record  
15 and then answer the question.

16 There are two situations in which you might  
17 be instructed not to answer. One situation is one in  
18 which there's privileged material. The other is one  
19 in which the question is objected to as beyond the  
20 scope of the resolution. In the event that either of  
21 those objections are made and you get an instruction  
22 not to answer, just wait until we deal with it

---

1 amongst ourselves here. If we can resolve it, then  
2 you can testify accordingly.

3 A And I would get that instruction from one  
4 of you?

5 Q Right. From one of us.

6 MR. PIERSON: If you have any question  
7 about that, ask me.

8 BY MR. CHERTOFF:

9 Q If we can't resolve it, we can go to the  
10 chairman of the committee and the chairman makes the  
11 final resolution.

12 Is there anything about what I've said to  
13 you that you want to ask about before we start?

14 A The only thing I did want to ask about is  
15 how I found out about this. It was a call from the  
16 American Spectator, telling me that certain phone  
17 records had been obtained. And this was four days  
18 before I was notified by White House counsel or my  
19 lawyer was notified.

20 So I have absolutely no confidence that  
21 anything that's said here today is kept in  
22 confidence. I appreciate your assurances but that

1 gives me no --

2 Q Well, maybe the American Spectator knows  
3 something we don't.

4 A They evidently know people.

5 Q Let me ask you, who called you?

6 A A reporter, and I have it on the phone  
7 log. I didn't return the call. I turned it over to  
8 counsel and so --

9 Q What was the message?

10 A The message was that phone logs had been  
11 obtained from Webster Hubbell, my name appeared on  
12 those phone logs, they wanted to talk to me because  
13 they were doing a story about it.

14 Q And did you respond in any way?

15 A Huh-uh.

16 Q Was this message --

17 MR. PIERSON: You need to answer audibly.

18 THE WITNESS: Oh, no, I didn't.

19 BY MR. CHERTOFF:

20 Q Was this message taken on voice mail or did  
21 someone write it down?

22 A Wrote it down.

1 Q Do you have a secretary?

2 A No.

3 Q Who took the message for you?

4 A An intern.

5 Q How long -- let me go back.

6 Where were you born?

7 A Lake Village, Arkansas.

8 Q How long have you lived -- did you live in  
9 Arkansas before you came to Washington?

10 A First time I came to Washington was in  
11 1968. I was what, 21?

12 Q Did you live in Arkansas until you were 21?

13 A Yes.

14 Q Did you go to college in Arkansas?

15 A Well, actually no, I went to school in  
16 Denver, Colorado, so I was gone right after high  
17 school. I left in '65 and came back in '67.

18 Q And then after you finished college you  
19 came to Washington?

20 A Completed two years of college and came to  
21 Washington, yes.

22 Q What did you do in Washington?

- 1 A Worked for Senator Fulbright.  
2 Q How long did you do that?  
3 A Three years.  
4 Q Then what did you do?  
5 A Went to California, worked as an interior  
6 designer out there and lived there until I came here  
7 in '92.  
8 Q How did you come to return to Washington in  
9 1992?  
10 A The election of then-Governor Clinton.  
11 Q Were you involved in the campaign?  
12 A Yes, I ran the campaign for Clinton/Gore in  
13 '92 in Northern California.  
14 Q And how did you come to get involved in the  
15 campaign in Northern California?  
16 A I've known President Clinton since I was  
17 19. And when I found out that he was going to run, I  
18 volunteered and I said I'd be glad to help, and  
19 helping led to full-time work.  
20 Q Did you have contact with either of the  
21 Clintons between the time you left Arkansas to come  
22 to Washington back in the '60s and the time that you

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10

- 1 began working, volunteering for the campaign?  
2 A Yes.  
3 Q On a regular basis?  
4 A Yes.  
5 Q In Arkansas?  
6 A Yes.  
7 Q Were you going back to Arkansas to visit  
8 with family?  
9 A Yes.  
10 Q Where does your family live in Arkansas?  
11 A Little Rock.  
12 Q Can you give us some idea over the years  
13 how often you would see the Clintons?  
14 A I first met Mrs. Clinton probably right  
15 after they were married. I've always gone home at  
16 Christmas, so the regularity would have been at  
17 holiday times.  
18 Q Now, after the election, did you get  
19 offered a position at the White House?  
20 A Not immediately.  
21 Q When?  
22 A I think right before Christmas, I think



1 probably two days before Christmas. I was in Little  
2 Rock at the time, working on the economic conference.

3 Q What was the position you were offered?

4 A Correspondence, director of correspondence.

5 Q When did you actually start to occupy that  
6 job?

7 A The day -- actually the minute he was sworn  
8 in. I'm one of the first people -- or that office is  
9 one of the first offices that goes into the White  
10 House. We brought people in the minute that he was  
11 sworn in. We had phones up and were taking care of  
12 that.

13 Q Now, what was your actual title when you  
14 started after January 20, 1993?

15 A Deputy assistant to the President, director  
16 of Presidential correspondence and messages.

17 Q How long did you hold that position?

18 A I don't know technically when they changed  
19 it over, because at some point about a year ago, I  
20 switched over to public liaison for a brief period of  
21 time, and now I'm in political affairs.

22 Q So is it fair to say at least through 1993

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12

1 your position was deputy assistant to the President  
2 for correspondence and messages?

3 A Yes.

4 Q Now, let me just keep your attention  
5 focused on 1993. Who did you report to?

6 A John Podesta.

7 Q What was his position?

8 A He was the staff secretary.

9 Q Who did he report to?

10 A The President. Well, I'm -- technically,  
11 I'm not sure. Probably Chief of Staff/President.

12 Q Did you have people who were working for  
13 you?

14 A Uh-huh, uh-huh.

15 Q How many people?

16 A At the time I came in, there were  
17 130-some-odd. You know, we did a 25-percent staff  
18 reduction. Literally, let me see, it fluctuated  
19 anywhere between, say, 60 and 80 people.

20 Q And what were their duties generally?

21 A Anything coming into the President from the  
22 public via package, fax, E-mail, letter, phone came

1 through, so there were 12 different operations that I  
2 ran under that.

3 Q And what were you personally involved with  
4 in terms of your duties?

5 A The overseeing of that operation. First of  
6 all, setting them up, bringing new staff in, getting  
7 them hired, trained, setting up systems, and then  
8 seeing that that worked correctly.

9 Q Now, were you located physically in the  
10 White House?

11 A What do you mean by "the White House"?

12 Q Your office, physically in the White House  
13 itself, as opposed to the Executive Office Building.

14 A No, the OEOB.

15 Q You were in the OEOB?

16 A Yes.

17 Q Did you personally have an office in the  
18 White House?

19 A No.

20 Q Did you have occasion to go to the White  
21 House on a regular basis?

22 A Yes.

1 Q Where would you typically go? Was there a  
2 particular office you would go to?

3 A No, because my office interfaced with every  
4 single department and every single person, and one of  
5 the things we did, we were creating letters for the  
6 President, the First Lady and the Chief of Staff. To  
7 get that language I could go anywhere. John  
8 Podesta's office was over there and we had regular  
9 staff meetings. If there was a regular office, it  
10 would have been John's, but I went in all the  
11 offices.

12 Q Do you know Carolyn Huber?

13 A Yes.

14 Q Did you either supervise her or did you  
15 have a regular reason to deal with her in terms of,  
16 you know, your job responsibilities?

17 A Yes and no. She was, on paper, in my  
18 department, but in truth, she really reported  
19 directly to the First Lady because she did more  
20 personal things for the First Lady. My relationship  
21 with Carolyn was personal but more -- more personal  
22 than actually professional.

1 Q In terms of the way the White House was  
2 organized, what was her formal relationship with you  
3 officially, on an official basis?

4 A I don't remember. She was -- I hadn't  
5 thought about that. I don't remember what she was  
6 slotted under, whether it was the First Lady's  
7 office -- I think technically she was on my budget  
8 doing the First Lady's correspondence, and she had  
9 some sort of title. And she ran that East Wing  
10 office. That was the -- where personal letters from  
11 the First Lady came in. I ran the public letters.

12 So I worked only very loosely with Carolyn.

13 Q Did you have occasion to be in the East  
14 Wing office which Carolyn Huber used?

15 A Very occasionally.

16 Q Now, again, in terms of your general  
17 supervisory responsibilities, would you be involved  
18 in scheduling for the President and First Lady?

19 A No.

20 Q Would you be involved in social planning  
21 for the President and First Lady?

22 A Not directly.

1 Q Would you be involved in personal  
2 correspondence for the President and First Lady?

3 A What do you mean by "involved"?

4 Q In other words, would you have some  
5 participation in handling or advising on personal  
6 correspondence?

7 A Occasionally; the young man that did the  
8 President's personal correspondence at the time, Trey  
9 Schroeder, and I would talk about who a person was,  
10 how well the President knew that person, did it  
11 require a personal response or personal signature  
12 versus an autopen. It would be that kind of  
13 conversation.

14 Q This individual reported to you or was part  
15 of your department?

16 A Part of my department, really reported  
17 directly to Nancy Hernreich. He was under me, worked  
18 with me, but I would not say reported to me.

19 Q Who is Nancy Hernreich?

20 A I don't know what her title is. She  
21 functions as the President's personal assistant.  
22 This is the best definition. I'm not big on titles

1 so I don't remember.

2 Q I'm just trying to get a sense of what her  
3 particular job is. What do you mean, "personal  
4 assistant"?

5 A In lay terms, she's the person that  
6 oversees who goes in and out of the offices and the  
7 paper. Technically the Secretary controls the paper  
8 flow in and out of the office but she's the one that  
9 would physically carry it in. So it's a  
10 semi-gatekeeper role.

11 Q During the time you've been in Washington,  
12 did you have occasion to interact with the President  
13 or First Lady socially?

14 A Yes.

15 Q And did you also come to know Webster  
16 Hubbell?

17 A Yes.

18 Q Now, when did you first get to know  
19 Mr. Hubbell?

20 A 11th grade.

21 Q And you've known him since then?

22 A Yes.

1 Q Were you in his class, went to school  
2 together?

3 A Yes.

4 Q Have you kept up your friendship with him  
5 since the time you first got to know him in Arkansas?

6 A Yes.

7 Q Did he have anything to do with your  
8 getting appointed to your position at the White  
9 House?

10 A No.

11 Q Now, did you have occasion to have contact  
12 with Mr. Hubbell during 1993?

13 A Yes.

14 Q What kinds of purposes?

15 A Probably daily. He's one of my best  
16 friends.

17 Q Mostly social calls?

18 A Yes.

19 Q Now, would you call him or would he call  
20 you most of the time?

21 A No either/or.

22 Q Is there a direct number that goes to you



1 as opposed to the number that's kind of more  
2 generally available?  
3 A Yes.  
4 Q What's the telephone number?  
5 A 456-2109.  
6 Q And is that a number that you give out to  
7 people who are people that you want to be able to  
8 reach you?  
9 A Yes.  
10 Q Did Mr. Hubbell have that number?  
11 A Yes.  
12 MR. CHERTOFF: Excuse me just a moment.  
13 Off the record.  
14 (Discussion off the record.)  
15 BY MR. CHERTOFF:  
16 Q Would you leave another number for  
17 Mr. Hubbell from time to time?  
18 A Possibly, because I don't answer the phones  
19 usually. I let somebody else pick it up. And at the  
20 time we had another number that my assistant had. I  
21 don't remember what it was.  
22 Q Was it 7610?

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20

1 A It could have been. I don't know.  
2 Q Is there any reason -- well, let me ask you  
3 this.  
4 A I haven't a clue is a better answer.  
5 Q Would you -- when you called Mr. Hubbell  
6 up, if you wanted to have him return the call, would  
7 you leave a particular number?  
8 A Not necessarily. If I was sitting at my  
9 desk and knew he was going to call -- this was before  
10 we had the phones that could tell you who was  
11 calling -- I probably would give him the 6-2109,  
12 yeah, 6-2109.  
13 Q Now, if you didn't know you were going to  
14 be sitting at your desk and you wanted to have it go  
15 to a number that your personal assistant or someone  
16 would answer, would you give him another number?  
17 A Possibly.  
18 Q Was there a general number that people  
19 would call, you know, from the public?  
20 A Yes.  
21 Q What's that number?  
22 A I don't know. It's the one that's still

1 there, if you call the correspondence department,  
2 whatever that is. There are actually two numbers.

3 Q Is that the number you would leave for  
4 Mr. Hubbell?

5 A No.

6 Q So --

7 A I don't think I would have given him  
8 anything other than my personal number or my  
9 assistant's number.

10 Q Are you familiar with the 456-7610 number?

11 A No, not -- it doesn't ring a bell but that  
12 doesn't mean anything.

13 Q Who is your personal assistant?

14 A Now it's Wendy Heistad.

15 Q Who was it in 1993?

16 A I'm not sure. Jane -- what was her last  
17 name. She was John Dean's secretary, the name is  
18 Jane --

19 MR. PIERSON: Thomas.

20 THE WITNESS: Jane Thomas, thank you. We  
21 were very bipartisan in those days.

22 BY MR. CHERTOFF:

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22

1 Q Was she someone you brought into the White  
2 House or was she just working there?

3 A No, that particular department is  
4 traditionally -- you know, there's no such thing as  
5 career people in the White House, but  
6 correspondence -- and I honestly think it's because  
7 it's predominantly minorities and women, and they're  
8 the lowest paid people in the White House -- they  
9 have kept them on.

10 So when I came on, I inherited a large  
11 number of people from previous administrations, some  
12 dating back to Kennedy's time. I terminated quite a  
13 few of those positions, as you all probably read in  
14 the papers, but Jane was one that I kept on. She was  
15 very competent, a really nice person, so I kept her  
16 for a while before she retired.

17 Q How long did she stay on?

18 A I'm terrible on dates and numbers.  
19 Probably -- I don't know.

20 Q Did she stay through 1993?

21 A Might not have. And then Julie Watson came  
22 on. I had three different assistants in that

1 period. Jane was the first, then I had a young man  
2 named Jeff Riley, and then Julie Watson. Both Jeff  
3 and Jane were very temporary in that position. Jeff  
4 continued working for me until last year but, not as  
5 my personal assistant, but within that suite of  
6 offices.

7 Q Jane Thomas was a Washington person; right?

8 A Yes.

9 Q Not from Arkansas?

10 A Right.

11 Q And Jeff Riley?

12 A Washington person.

13 Q Not from Arkansas?

14 A Right.

15 Q And Julie Watson?

16 A Washington.

17 Q Not from Arkansas?

18 A Right.

19 Q Did you have any other -- did you have more

20 than one personal assistant at a time?

21 A No.

22 Q If you wanted Mr. Hubbell to get back to

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24

1 you and you didn't leave your direct number, is there  
2 anybody else's number you would leave besides that of  
3 your personal assistant?

4 A No.

5 Q Were there occasions you left your personal  
6 assistant's number with Mr. Hubbell?

7 A Possibly.

8 Q Were there --

9 A It would have -- a lot of it would depend

10 on where I was sitting at the time. I had 12  
11 operations and I don't know how many rooms that  
12 covered, almost two floors of the OEOP, and I'm a  
13 real hands-on manager, so I would go and spend time  
14 in the offices.

15 If I were in an office and doing something  
16 at a computer there with people there, and I was  
17 going to be there for a while, I could have easily  
18 called him from one of those. So, you know, there  
19 were probably 100-some phones in those offices.

20 Q In terms of the directory of White House  
21 phones, am I correct that the number that went either  
22 to you directly or to your personal assistant

1 directly would not have been a number that would be  
2 generally disseminated to the public?

3 A Well, that was true until a radio station  
4 in Virginia disseminated all of our private numbers,  
5 so there was a time when anyone in the world knew it.

6 Q When was that?

7 A Happened twice in the White House. One of  
8 the right wing talk show hosts got hold of White  
9 House numbers and broadcast them and we were  
10 flooded. It shut down all the systems. Happened on  
11 two different occasions.

12 Q Can you tell me what year it was?

13 A I think one happened in '93 and probably it  
14 happened in '94. I don't remember it happening now  
15 in '95, so I would say in '93 and '94.

16 Q Other than people who happened to pick it  
17 up over that station, am I correct that your personal  
18 number or the number of your personal assistant was  
19 not generally made publicly available?

20 A I don't know if that's true. It was on my  
21 business cards at the time, so that -- there again,  
22 sort of yes and sort of no.

1 Q Well, when I say "publicly available,"  
2 published in like directories or informational  
3 guides.

4 A It probably was published in the White  
5 House directory, uh-huh.

6 Q What about in the phone book? Was your  
7 personal number at the White House or the number of  
8 your personal assistant at the White House, was that  
9 in the phone book?

10 A No.

11 Q And in terms of tourist guides to the White  
12 House or the kind of documents that are made  
13 available to members of the general public with no  
14 particular reason to deal with you.

15 A I doubt it, but I'm not -- at that time I  
16 was pretty loose about my phone number. I'm less so  
17 now.

18 Q Excuse me for just a moment.

19 Did your personal assistant work for  
20 anybody besides you?

21 A No.

22 MR. PIERSON: Let's make sure that we're



1 clear here.

2 BY MR. CHERTOFF:

3 Q In '93.

4 A Okay.

5 Q All my questions, until I tell you  
6 otherwise, are focused on 1993.

7 A Okay. Yes and no. My assistants up until  
8 the time Julie Watson became my permanent assistant,  
9 we had a rotating system of people who could be on  
10 loan to other staff. They were the only people in  
11 the building that were stenographers, for instance,  
12 or typists. They're in short supply in the White  
13 House.

14 So there were, I think at the time, 16, all  
15 women, who had those skills.

16 And there were five in particular that we  
17 would loan out to senior staff when senior staff  
18 assistants would be on vacation or ill.

19 And Jane and Julie both, and Jeff, fell in  
20 that category, Jeff being the only man that did it,  
21 so there may have been occasions when they were  
22 functioning as my assistant that I may have sent them

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1 over to Mr. McLarty's office or someone's office for  
2 a day at the time, and then used interns or myself.

3 Q On the occasions that your personal  
4 assistant was sitting at his or her normal station,  
5 would they be typically working only for you or would  
6 there be someone else that they would also be  
7 handling calls for and correspondence for?

8 A They handle calls for a lot of people. We  
9 had a suite of offices that all fed into my reception  
10 area, and there were probably, I'd say, anywhere from  
11 10 to 30 lines that may have fed off of that central  
12 desk.

13 Initially when we came in, all the  
14 correspondence calls came in to that desk, there  
15 would have been hundreds of calls coming in to that  
16 number.

17 Q How many people were in the suite?

18 A Probably eight to 10 in that one little  
19 strip, but at one time we were linked to all the  
20 other offices. There were a lot of calls coming in.  
21 We changed that. I think that happened sometime in  
22 the second or third month we were there.

1 Q So that by the latter half of December --  
2 latter half of 1993 rather, from let's say July  
3 through December, what was the number of people in  
4 the suite that were handled -- whose phones were  
5 handled by your personal assistant?

6 A Just to be fair, because I don't remember  
7 the numbers, eight to 15 people.

8 Q Did they each have their own set of lines  
9 with separate numbers?

10 A They would each have had a separate number  
11 but there was a central number, and that was at her  
12 desk.

13 Q Do you remember the central number?

14 A No. I think it's the same one.

15 Q As what?

16 A That they have now.

17 Q I'm going to show you two exhibits. One is  
18 10785 and 10815. I'll pass it to you.

19 MR. IVEY: 10785 and 10- what?

20 MR. CHERTOFF: 10815.

21 BY MR. CHERTOFF:

22 Q These are messages from Webster Hubbell's

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1 message pad which -- both of them in the lower  
2 left-hand corner, there is a message from you with a  
3 phone number, 456-7610. Take a look at them and see  
4 if you can refresh your memory about to whom this  
5 particular number went, 7610.

6 (Witness reviewed the document.)

7 A I don't know.

8 MR. PIERSON: Look at the other one, too.  
9 For the record, one of these is dated August 19, the  
10 other one is July 27.

11 BY MR. CHERTOFF:

12 Q Right.

13 A I don't know but you can -- I'm sure you  
14 can call the number. I don't have a clue.

15 Q If you left a number for Mr. Hubbell, is it  
16 fair to say it was a number that you expected would  
17 be pretty much dedicated to you, either going to you  
18 directly or your personal assistant?

19 A No, no.

20 Q You would leave her a general number --

21 A It may have meant that I was just sitting  
22 there for -- I knew I was going to be there for a

1 period of time.

2 Q So is it your sense that on two different  
3 occasions in July and August, you left messages for  
4 Mr. Hubbell at a 7610 number where you just happened  
5 to be sitting?

6 A Easily could be.

7 Q Is there a -- are there particular places  
8 within the suite or couple of floors that you tended  
9 to be, on a more than infrequent basis, sitting, so  
10 to speak?

11 A I could be waiting for John Podesta, I  
12 could have been over in his suite of offices. I  
13 could have been in the lobby over in the West Wing.  
14 I could have been downstairs in the lobby in the West  
15 Wing, waiting to see somebody.

16 Q Would you have left a number where you were  
17 waiting in the lobby for Mr. Hubbell to get back to  
18 you?

19 A Yeah, if I thought I was going to be  
20 waiting for long. I've waited for Harold Ickes an  
21 hour and a half before so --

22 Q In other words, if you thought you were

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1 going to be waiting for somebody for an undetermined  
2 period of time in a hallway or in a vestibule, you  
3 would look at the number there, call Mr. Hubbell up  
4 and say call me here?

5 A Sure. If I was in somebody's office, if I  
6 was working in somebody's office.

7 What are the dates?

8 Q July 27 at 10:25 and August 19 at 1:25.

9 A What was the other date?

10 Q One is July 27 and one is August 19.

11 MR. PIERSON: You were just back in D.C.  
12 from the funeral.

13 THE WITNESS: Right. August 19, that's the  
14 President's birthday.

15 BY MR. CHERTOFF:

16 Q Does that help you determine what 456-7610  
17 is?

18 A No, but that's -- I wonder -- what did we  
19 do that first year. I don't remember.

20 Q And July 27, does the fact that you were  
21 just back from the funeral -- did you go to the  
22 funeral with everybody in Air Force One?

- 1 A Yes, and I came back on Air Force one.  
2 Q On Friday night?  
3 A Yes.  
4 Q Does that fact help you determine what the  
5 456-7610 number might have been on Tuesday?  
6 A No.  
7 MR. CHERTOFF: I'm waiting for something.  
8 Why don't we take a two-minute break.  
9 (Recess.)  
10 BY MR. CHERTOFF:  
11 Q Do you have a fax number in your office?  
12 A Uh-huh.  
13 Q What is it?  
14 A 456-5558.  
15 Q In your office, are you involved in advance  
16 work?  
17 A My office now or then?  
18 Q No, the one you had then, '93.  
19 A No.  
20 Q Let me go back to this 7610 number.  
21 A Okay.  
22 Q Now, here's another message for Judge

- 1 Hubbell. This is number 11025 for identification,  
2 dated September 21 at 1:55 p.m., from you at  
3 456-7610.  
4 A Okay.  
5 Q Does that help you remember what that  
6 number is?  
7 A No.  
8 Q Do you still think it might be a vestibule  
9 or a hallway where you were waiting for somebody?  
10 A No. As I said earlier, it could be that,  
11 it could be any office, it could be anywhere I was  
12 that I thought I was going to be there for a while  
13 and had time to kill.  
14 Q Is there an office with that number that  
15 you would be at on a regular basis besides your own  
16 office with the 2109 number?  
17 A As I said, John Podesta's office is where  
18 we had staff meetings regularly. And I often  
19 waited. And there are four or five phones in that  
20 office, so I could have been sitting at any of those  
21 desks.  
22 Q When did you used to have staff meetings at



1 Mr. Podesta's office? Again still in '93.

2 A Every morning we had them. I think -- now,  
3 I think they were called for 8:30 or 9:00 but  
4 oftentimes wouldn't be until 9:30 or 10:00, sometime  
5 in there.

6 Q So it wouldn't be at 1:55 in the afternoon?

7 A Could have been.

8 Q Do you think 7610 is an extension for  
9 Mr. Podesta's office?

10 A I honestly don't know.

11 Q Now, here is another call on September 21  
12 at 4:10 from you leaving 456-7610 with a message,  
13 please call her before you go -- leave for White  
14 House. This is production number 11026. Still think  
15 that's Mr. Podesta's office where you were waiting?

16 MR. PIERSON: Objection.

17 THE WITNESS: I haven't a clue where it  
18 is.

19 MR. PIERSON: Objection. She has at least  
20 four times said she hasn't the foggiest idea what  
21 7610 is.

22 BY MR. CHERTOFF:

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1 Q I'm going to see if I can refresh you  
2 further. Here is number 11961, message for Judge  
3 Hubbell, February 2, 2:37 p.m., Marsha Scott,  
4 456-7610.

5 A Sorry, don't know.

6 Q Production number 11968, Marsha Scott of  
7 White House, phone number 456-7610.

8 A Don't remember.

9 Q That's production number 11968.

10 MR. IVEY: These are all on February 2?

11 BY MR. CHERTOFF:

12 Q Yes, February 2, 1:12 p.m., Marsha Scott,  
13 456-7610, Judge Hubbell.

14 MR. PIERSON: What's the production number  
15 on that one?

16 BY MR. CHERTOFF:

17 Q That's production number 11969. February  
18 5, 3:20 p.m., Marsha Scott, 456-7610. It's 11988.

19 A If you know where this is --

20 Q I don't.

21 A -- why don't we call it?

22 Q Well, we've actually, for the record, asked

1 the White House a few times over the last few weeks  
2 for this number and a bunch of other numbers and we  
3 haven't gotten a response yet so we're going to try  
4 it this way.

5 Here is production number 12053, February  
6 19, 1:22, Marsha Scott, 456-7610.

7 MR. IVEY: What was the Bates number on  
8 that?

9 BY MR. CHERTOFF:

10 Q That's Bates number 12053. Marsha Scott  
11 for Judge Hubbell, February 22, 1:55 p.m., 456-7610.  
12 That's production number 12065.

13 I have to ask you, Ms. Scott, is it still  
14 your position that you do not know what that 7610  
15 number is?

16 A Absolutely. Now, the only thing I can  
17 think of is we changed our phone systems in the White  
18 House during that year, and that could have been my  
19 original phone number. If it is, I don't know. The  
20 one I have now, and that I've had as best as I  
21 remember, is 6-2109.

22 I easily could have had another number when

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1 we came in because we have completely revamped the  
2 phone systems in the White House, as you know. We  
3 have new systems, new phones. We could have gotten  
4 new numbers. If we did, I don't remember.

5 Q So are you telling us now you think that  
6 it's possible that 7610 was your number back in 1993?

7 A I'm just saying I am trying to help you  
8 figure out what that number is. I don't have a clue  
9 what the number is. We changed the phone system,  
10 that could be an explanation, but I haven't a clue  
11 what that number is.

12 Q The number doesn't ring a bell?

13 A It does not, but as you've noticed, numbers  
14 don't stick in my head. That's not what I remember.

15 Q Okay. Let me ask you, is there any number  
16 besides your own personal number at the White House  
17 that you would have regularly left with Mr. Hubbell  
18 for him to call you back at?

19 MR. PIERSON: In 1993?

20 MR. CHERTOFF: Yes.

21 THE WITNESS: That I would have regularly  
22 left?

1 BY MR. CHERTOFF:

2 Q Yes.

3 A My assistant's number.

4 Q And when you say your assistant's number,  
5 that would be --

6 A That would have been the desk right outside  
7 my office, whatever that phone number was. If I  
8 wanted to leave a message that they would relay to  
9 him, or if I was going to be busy and I wanted  
10 someone else to pick up the phone and let me know  
11 someone was calling, I would have left that number.

12 Q And that number would be at your  
13 assistant's desk but would be dedicated to whom, to  
14 your calls?

15 A No, no, that would have been my assistant's  
16 probably personal number.

17 Q Now, I will also represent to you that we  
18 have a series of telephone calls with actual  
19 conversation, you know, several minutes of  
20 conversation from Mr. Hubbell's telephones to the  
21 7610 number.

22 Do you have reason to believe that

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1 Mr. Hubbell would have had extended conversations  
2 with your personal assistant, like nine, 10 minutes?

3 A Could have. They were friends.

4 Q Which one of your personal assistants --

5 A Mr. Hubbell is a very friendly person.

6 Q Which one of your personal assistants in  
7 1993 was a friend of Mr. Hubbell?

8 A Julie Watson. Well, I use that term in the  
9 broadest sense. She liked Mr. Hubbell, she would  
10 have talked to him. He's gregarious. If she was  
11 killing time for me, she would have talked to him.

12 Q Do you think Mr. Hubbell was -- was  
13 Mr. Hubbell in the habit of killing time?

14 A I don't know. You have to ask him.

15 Q I thought he was a very close friend of  
16 yours.

17 A He is, but I don't know how he would define  
18 that.

19 Q So is it your testimony that you think  
20 that -- I'll withdraw the question and put it another  
21 way.

22 Do you have any reason to believe that

1 Mr. Hubbell had a practice of engaging Ms. Watson in  
2 conversation five or 10 minutes at a time on the  
3 telephone?

4 A I doubt it. It was probably -- if there  
5 was a duration of time that the conversation  
6 occurred, he was probably talking to me.

7 Q Did the 7610 number ring through to your  
8 office?

9 A I don't know where that number is. I don't  
10 have a clue what that number is.

11 Q I'm sorry. Did your personal assistant's  
12 number ring through to your office?

13 A No.

14 Q In other words, if Mr. Hubbell called your  
15 personal assistant's number --

16 A I wouldn't have known that.

17 Q Did she have the ability to put that call  
18 right into your office?

19 A They do now. I'm trying to think if they  
20 did back then. We had the old system, and it was  
21 very limited in what it could do. I don't remember  
22 whether we could transfer calls or whether she would

1 have to walk in and tell me. I don't remember back  
2 then.

3 Q And if your personal number were called,  
4 would that be something that would ring at your  
5 secretary's desk?

6 A It does now. Whether it did then, I don't  
7 remember. I don't know.

8 Q Well, I'm trying to figure out back in  
9 those days, back in '93, how the telephone calls came  
10 in. If a call came in for you, did it ring into your  
11 office and then your secretary could pick it up?

12 A That's the way it is now, but the first  
13 systems we had were those old -- you know, we had a  
14 few rotary phones and push phones, and they didn't  
15 have that interoffice transfer ability, and we didn't  
16 have voice mail. So I don't remember whether she had  
17 to physically get up and come in and tell me. I  
18 don't know.

19 Q Do you know whether the phone back in '93  
20 would ring both in your office and in the outer  
21 office?

22 A No, I don't know that. And I had two phone



1 numbers in my inner office because I had a huge  
2 office. It was this size, and I had another little  
3 auxiliary desk, and there was another phone there.  
4 And I don't remember whether it had a separate number  
5 or not.

6 Q Do you know whether that -- so you don't  
7 know whether you had two --

8 A It could have been the same number as her  
9 number outside. That all should be on a record  
10 somewhere. I just have absolutely no reason to  
11 remember phone numbers of offices I've been in.

12 Q So right now you can't tell us whether this  
13 7610 number was your personal number back in 1993?

14 A That's exactly right.

15 Q Now, did you know Paula Casey?

16 A No.

17 Q Do you know who she is?

18 A No.

19 Q Did you --

20 A I say no. I mean, I think I've read it in  
21 the paper.

22 Q You know she was, in 1993 for a period of

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1 time, the United States Attorney in Little Rock?

2 A I do now.

3 Q Never had any contact with her?

4 A No.

5 Q Ever have any contact with anybody in her  
6 office?

7 A I don't know where her office -- I don't  
8 know her, so, to my knowledge, I don't know her, I  
9 don't know who is in her office, I don't know where  
10 her office is.

11 Q Did you ever have any contact with any  
12 federal prosecutor from Little Rock?

13 A You mean in an official way, no.

14 Q In any way.

15 A I don't know. I don't know who they are.

16 Q Well, do you have any friends in the  
17 prosecutor's office?

18 A In Little Rock?

19 Q Yes.

20 A Possibly. I know a lot of people in Little  
21 Rock. I grew up there. And I don't know who is a  
22 prosecutor or who is not.

1 Q Well, I'm not talking about who you knew  
2 back when you grew up in Little Rock. Since you've  
3 been with the White House, so we'll limit it to a  
4 period of time --

5 A To my knowledge, I don't know. I don't  
6 remember anyone who is a federal prosecutor in Little  
7 Rock. If you showed me a list of who they are, I'd  
8 be glad to tell you if I know them or not.

9 Q In your circle of -- there are people  
10 obviously that you are still friendly with in Little  
11 Rock; right?

12 A Yes.

13 Q Those people presumably you know what they  
14 do for a living?

15 A Sometimes.

16 Q Are there -- do you have friends in Little  
17 Rock that you've been in touch with since January  
18 1993 whose occupations you're not familiar with?

19 A I might not. A lawyer is a lawyer. I  
20 don't really care whether you work in a private firm  
21 or a public firm. That would not interest me at all,  
22 Michael, so if you are a federal prosecutor, if you

1 were in the Attorney General's office, I frankly  
2 wouldn't care, so I may not know that.

3 Q Are there people from Little Rock who would  
4 come, for example, and call on you and ask you to  
5 arrange White House tours for them?

6 A Yes.

7 Q And how often does that happen?

8 A At least once or twice a week.

9 Q These are friends of yours or just  
10 acquaintances?

11 A Not necessarily. They're just people from  
12 Arkansas.

13 Q Now, does your office handle tours?

14 A All offices handle tours.

15 Q And when you get a call, how does it work  
16 if someone calls up for a tour?

17 A Generally they are looking -- someone has  
18 said there's someone from Arkansas in such-and-such  
19 an office that might be willing to do it, and my  
20 staff was very good and very gracious about giving  
21 tours, so they would call either me or they would  
22 call any one of the Arkansans on the staff.

1 Q And then you would direct them to the  
2 proper person who would take care of it?

3 A Yes.

4 Q I just want to make sure I understand  
5 this. Do you know any FBI agents in Arkansas?

6 A Let me think. I have known Mickey Maroney,  
7 who was killed in Oklahoma City, back when we were in  
8 college.

9 Q I mean people in the FBI office in  
10 Arkansas, let's say, since January 1993.

11 A Not to my knowledge.

12 Q My question is from January of 1993 to the  
13 present, did you know anybody in the FBI stationed in  
14 the Little Rock office?

15 A I don't think so.

16 MR. PIERSON: Objection. It might be  
17 easier when you ask the question if you were to ask  
18 her do you know someone who you knew to be an agent  
19 in the FBI office, because that's the problem she's  
20 having. She knows people in Little Rock. She may  
21 not know whether they are connected with the FBI  
22 office and her answers are not connecting with your

1 questions.

2 MR. CHERTOFF: She can only give us answers  
3 to the best of her knowledge.

4 MR. PIERSON: Of course.

5 BY MR. CHERTOFF:

6 Q And likewise, did you know anybody -- we'll  
7 just say since January 1993 -- in Little Rock who was  
8 connected with the federal prosecutor's office?

9 A I don't think so, no.

10 Q Did Mr. Hubbell ever mention to you anybody  
11 who was connected with the federal prosecutor's  
12 office in Little Rock in 1993?

13 A I wouldn't know because I don't know who  
14 they are. If you would give me names, if you would  
15 say these are the names of the federal prosecutors,  
16 then I could tell you whether I've ever heard mention  
17 of their names, but I don't know the people that  
18 you're trying to reference me with. It's not making  
19 sense to me.

20 Q I'm not interested in the people that you  
21 don't know in the office. I'm interested in the  
22 category of people you do know, whether anybody --

1 A I don't categorize people by their  
2 occupations. I don't know who you're talking about.

3 Q Did Mr. Hubbell ever tell you or talk to  
4 you about someone that either you knew to be someone  
5 in the federal prosecutor's office in Little Rock or  
6 that he told you was with the federal prosecutor's  
7 office in Little Rock in 1993?

8 A No, I don't remember any such  
9 conversations.

10 Q Have you ever called the federal  
11 prosecutor's office in Little Rock in 1993?

12 A No.

13 Q Have you ever gotten a message from the  
14 federal prosecutor's office in Little Rock to call  
15 back in 1993?

16 A No.

17 Q Did Mr. Hubbell ever talk to you about  
18 David Hale?

19 A It's been in the paper so much, probably.

20 Q In 1993?

21 A I doubt it. I mean I don't know what was  
22 going on in '93. No, I would say, probably not.

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1 Q Do you know David Hale?

2 A No.

3 Q To your knowledge, did you ever meet David  
4 Hale?

5 A No.

6 Q What about Jim McDougal?

7 A Yes.

8 Q When did you meet Jim McDougal?

9 MR. PIERSON: Time out. When you say what  
10 about Jim McDougal, which question were you asking,  
11 whether she knew him or she had met him?

12 THE WITNESS: Which were you asking?

13 BY MR. CHERTOFF:

14 Q Do you know Jim McDougal?

15 A Yes.

16 Q How did you first get to know him?

17 A When I was right out of high school, after  
18 my first year of college, I dated a real close friend  
19 of his. And Jim and I worked together for Senator  
20 Fulbright back in '67 or '68.

21 Q After that experience, did you maintain  
22 contact with Mr. McDougal?



- 1 A No.  
2 Q When is the last time you remember speaking  
3 to Mr. McDougal?  
4 A Good question. Probably in late '60s,  
5 early '70s.  
6 Q Do you know Steven Smith?  
7 A Steven Smith of Arkansas?  
8 Q Yes.  
9 A No.  
10 Q Do you know Jim Guy Tucker?  
11 A Yes.  
12 Q When did you first meet Jim Guy Tucker?  
13 A Back at the same time I probably met Jim  
14 McDougal.  
15 Q And have you been in touch with Mr. Tucker  
16 since you first met him?  
17 A Yes.  
18 Q When is the last time you had contact with  
19 Mr. Tucker?  
20 A The last time I was in Arkansas, I saw he  
21 and his wife, Betty, at a social function.  
22 Q That's within the last year?
- 

- 1 A Yes.  
2 Q Were you in regular contact with Governor  
3 Tucker -- I know he wasn't governor the entire  
4 time -- but with Mr. Tucker from the time you first  
5 met him through 1995?  
6 A No.  
7 Q How often would you say you had contact  
8 with Mr. Tucker over the years?  
9 A I would only run into him at social  
10 occasions.  
11 Q Did you have conversations with Mr. Hubbell  
12 about Mr. Tucker in 1993?  
13 A No.  
14 Q Did you have conversations with Mr. Tucker  
15 about Mr. Hubbell in 1993?  
16 A No.  
17 Q Did you talk to Mr. Tucker about any legal  
18 problems he had between 1993 and 1995?  
19 A No.  
20 MR. CHERTOFF: Just a moment.  
21 (Recess.)  
22 BY MR. CHERTOFF:

- 1 Q Do you know an R.D. Randolph?  
2 A R.D. Randolph. God, I haven't thought  
3 about him for a long time. Yeah, I probably knew him  
4 back when I worked for Fulbright.  
5 Q And how did you know him?  
6 A He was one of -- he's from Arkansas. He  
7 may have worked for the Senator back then.  
8 Q Do you know Larry Wallace from Arkansas?  
9 A Larry Wallace. Possibly. Give me a clue.  
10 Who is he?  
11 Q Well, I guess, a businessman. If you don't  
12 know, you don't know. I'm not going to force you to  
13 say yes.  
14 A I may. Obviously he's not one of my  
15 closest acquaintances.  
16 Q When is the last time you dealt with or saw  
17 Mr. Randolph?  
18 A I probably haven't seen him since the late  
19 '60s.  
20 Q Do you know a Herbie Branscomb?  
21 A I know who Herbie Branscomb is, sort of.  
22 Q How is it that you know who he is, other

- 1 than from newspapers?  
2 A He's from -- well, I say I know him. He's  
3 from Arkansas. I think my parents know him, so I may  
4 have met him at a social function years ago.  
5 Q Do you know Charles Peacock?  
6 A I don't think so.  
7 Q Did you ever know Chris Wade?  
8 MR. IVEY: What was the name?  
9 MR. CHERTOFF: Wade, W-a-d-e.  
10 THE WITNESS: Doesn't ring a bell.  
11 MR. CHERTOFF: I have nothing further.  
12 MR. IVEY: I have no questions.  
13 MR. CHERTOFF: I want to pursue the  
14 telephone number. I want to see if we get some  
15 further enlightenment on this, it may be something we  
16 want to pursue a little bit further with you.  
17 THE WITNESS: I suggest you pick up the  
18 phone.  
19 MR. CHERTOFF: Maybe it would work better  
20 for you than us. When we ask the White House to give  
21 the identity of people's phone numbers, we get a very  
22 slow response.

1 MR. PIERSON: When did you ask the White  
2 House?

3 MR. CHERTOFF: Several weeks ago.

4 MR. PIERSON: We'll see if we can help  
5 you.

6 MR. CHERTOFF: Good. Thank you.

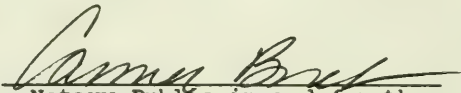
7 (Whereupon, at 10:42 a.m., the deposition  
8 was concluded.)  
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10 -----  
11 MARSHA SCOTT  
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

56

I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
Notary Public in and for the  
District of Columbia

My Commission Expires MARCH 14, 1998



**DEPOSITION OF NEYSA L. DAY  
IN RE: S. RES. 120**

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**THURSDAY, NOVEMBER 2, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of NEYSA L. DAY, called for examination pursuant to notice of deposition, at 2:35 p.m. in Room 124 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.  
Majority Associate Special Counsel  
ANDREW M. SCHAUER, Esq.  
Minority Assistant Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

JOHN C. BINKLEY, Esq.  
Resolution Trust Corporation  
Counsel, Division of Legal Services  
1717 H Street, NW  
Washington, DC 20006  
On behalf of the Deponent.

ALSO PRESENT: TIMOTHY P. MITCHELL

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**WITNESS****EXAMINATION**

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## 1 PROCEEDINGS

2 Whereupon,

3 NEYSA L. DAY

4 was called as a witness and, having first been duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. BARTOLOMUCCI:

8 Q Ms. Day, I thank you for coming here.

9 Before we begin the examination there are some things  
10 I have to tell you, that I have to read for purposes  
11 of the record.12 This is a deposition being conducted  
13 pursuant to Senate Resolution 120, which establishes  
14 a special committee administered by the Banking  
15 Committee to investigate Whitewater Development  
16 Corporation and certain other related matters.  
17 Amongst those related matters are those relating to  
18 Madison Guaranty Savings & Loan, the Resolution Trust  
19 Corporation and criminal referrals prepared by the  
20 RTC pertaining to Madison.21 This deposition is being conducted in  
22 advance of public hearings to be held later this

4

1 month. You may or may not be called to testify at  
2 those hearings.3 You have been sworn in and the questions  
4 will be given to you under oath. If you don't  
5 understand a question, let me know and I will  
6 rephrase it. And if at any time you want to take a  
7 break, just let me know and we will take one.8 The stenographer will prepare a record of  
9 the questions and answers, and this deposition will  
10 be treated as committee confidential until the  
11 commencement of the hearings. Prior to the hearings,  
12 you will receive a letter from the committee telling  
13 you that you may come to the Senate to review the  
14 transcript of the deposition and make note of any  
15 corrections for transcription on an errata sheet.16 If you are called to testify at the  
17 hearings, you will be permitted to have a copy of  
18 your deposition transcript four days in advance  
19 thereof.20 Although you may be accompanied by counsel,  
21 I take it you are not today?

22 A No, I am not.

1 Q Just so you know, objections may be raised  
2 to the form of questions and they will be noted for  
3 the record. Objections may be raised on the ground  
4 that a question calls for a privileged answer or that  
5 the question is beyond the scope of Senate Resolution  
6 120. If at any time you refuse to answer a question,  
7 the committee chairman may rule on whether that's  
8 permissible.

9 Mr. Binkley, do you want to state your name  
10 for the record and tell us why you are here.

11 MR. BINKLEY: Yes, John C. Binkley. I am  
12 counsel for the RTC. I have a statement I would like  
13 to place on the record.

14 Ms. Day and other witnesses are appearing  
15 because of the request of the special -- Senate  
16 special committee, for depositions of present and  
17 former employees of the RTC. The RTC is not waiving  
18 any applicable privileges as a result of Ms. Day or  
19 other employees or former employees appearing and  
20 answering questions during these depositions.

21 MR. SCHAUER: I would like to note for the  
22 record that Ms. Day has obviously come here from

1 Kansas City and if she is called to testify we can  
2 make arrangements to have her deposition forwarded  
3 somewhere so that you can review it, and wouldn't  
4 have to come back to Washington.

5 THE WITNESS: Thank you. I would  
6 appreciate that.

7 MR. BARTOLOMUCCI: Thank you. That was a  
8 good observation.

9 BY MR. BARTOLOMUCCI:

10 Q Ms. Day, I take it from the business card  
11 that you handed me that you are not currently  
12 employed with the RTC?

13 A That's correct.

14 Q What are you doing right now?

15 A I am in private practice with the Hill  
16 Lewis law firm.

17 Q How long have you been with Hill Lewis?

18 A Since the beginning of October.

19 Q Of this year?

20 A Yes, sir.

21 Q Did you come to Hill Lewis from the RTC?

22 A Yes, I did.



1 Q When you left the RTC what was your  
2 position there?

3 A I was a senior attorney in the professional  
4 liability section.

5 Q And as of the time you left to join Hill  
6 Lewis you were based in the Kansas City office?

7 A That's correct.

8 Q How long had you been in the Kansas City  
9 office as an attorney in the PLS section?

10 A I started in April 1991.

11 Q Were you with the RTC prior to April of  
12 1991?

13 A No, I was not.

14 Q So you joined in April '91 and became an  
15 attorney or a senior attorney. Was your title just  
16 attorney at that point?

17 A No, I was a senior attorney when I was  
18 hired.

19 Q And that was your position throughout your  
20 tenure at the RTC until you left in October of this  
21 year?

22 A That's right.

1 Q During the time you were at the RTC, who  
2 did you report to?

3 A At different times I reported to different  
4 individuals.

5 Q Okay, how about when you left the RTC?

6 A My immediate supervisor at that time was  
7 Duane Curtis.

8 Q What was his title?

9 A Section chief, professional liability  
10 section.

11 Q Do you remember who you reported to when  
12 you joined in April of '91?

13 A I reported to Duane at that time also, but  
14 I didn't always report to Duane. It changed.

15 Q Can you tell us, if you can, briefly what  
16 that change was?

17 A Well, Duane was gone for a period of time,  
18 in Dallas, and I did not report to him during that  
19 time. Until -- and I can't remember when this began,  
20 but until April of 1995, I reported to the deputy  
21 section chief for PLS in Kansas City, whose name was  
22 David Vorbeck -- name is still David Vorbeck,

1 V-o-r-b-e-c-k. Then I reported -- in Duane's absence  
2 when he was in Dallas I reported not only to David  
3 Vorbeck but also to Julie Yanda. And at all times  
4 Julie was a level above Duane in my supervision.

5 Q So then am I correct that at all times you  
6 reported to Ms. Yanda, whether through some other  
7 intermediary --

8 A During the time of my tenure at RTC?

9 Q Yes.

10 A That's correct.

11 Q When you were at the RTC, were you assigned  
12 a specific set of institutions to do work upon?

13 A Yes, I was.

14 Q Do you know roughly how many that might  
15 have been?

16 A It varied at different times in my tenure.  
17 We were much busier in 1991 and '92 and '93 than we  
18 were when I left in '95. I think probably at its  
19 height I might have had 21, 22 institutions. When I  
20 left, a month ago, I probably had closer to seven or  
21 eight.

22 Q How about in 1991?

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10

1 A In 1991, the list was not as large, because  
2 the Kansas City office was at that time only  
3 responsible for -- I think we just had four states,  
4 four or five states. And then after a  
5 reorganization, we ended up with I think 21 or 22  
6 states, considerably more.

7 Q But initially, in 1991, the Kansas City  
8 office had responsibility for four to five states and  
9 so that had some bearing on the number of thrifts you  
10 were involved with?

11 A That's correct.

12 Q Do you remember about how many you were  
13 working on in '91?

14 A I could guess, but it would be nothing more  
15 than a guess.

16 Q Now, I take it from what you've told me  
17 that you never worked in the Tulsa office of the RTC?

18 A I did not work in the Tulsa office, but I  
19 worked with the Tulsa office.

20 Q Did the Tulsa office have some overlapping  
21 jurisdiction for thrifts that was shared with the  
22 Kansas City office?

1       A    At one point in time, in mid-1991, the  
2 Tulsa office did not have a professional liability  
3 section. So the professional liability section in  
4 Kansas City was responsible for those institutions  
5 being investigated and litigated in the Tulsa office  
6 as well as those out of the Kansas City field  
7 office.

8       Q    Where were you employed before you came to  
9 the RTC in April of '91?

10      A    I was employed by the Husch & Eppenger  
11 law firm in Kansas City.

12      Q    Private practice?

13      A    Yes. Actually I think their name was  
14 Husch, Eppenger, Corn, Donahue & Jenkins when I  
15 worked there and has since been changed.

16      Q    When you were in the Kansas City office of  
17 the RTC, did you ever do any work with Laura Jean  
18 Lewis?

19      A    Yes.

20      Q    When did you meet Ms. Lewis?

21      A    Right after she began working as an  
22 investigator in the Tulsa office. It was late June

1 or early July of 1991.

2      Q    So she came to work a few months after you  
3 did?

4      A    That's correct.

5      Q    And that's when you met her?

6      A    That's correct.

7      Q    What were the different S&Ls that you  
8 worked on in connection with -- or together with  
9 Ms. Lewis?

10      A    Those that we were assigned to work  
11 together on or those that we actually worked together  
12 on?

13      Q    Well, let's start with assigned.

14      A    I can't answer that question because I am  
15 not -- I was never certain what Jean was working on,  
16 but I can tell you some that she worked with me.

17      Q    Well, I meant -- let me rephrase the  
18 question.

19           Which S&Ls were you assigned to work on  
20 that it was your understanding you were to be working  
21 with Jean Lewis?

22      A    At various times, I worked with Jean on

1 First Federal of Paragould, Arkansas,  
2 P-a-r-a-g-o-u-l-d; Savers Federal Savings & loan,  
3 Little Rock, Arkansas. She was assigned and I knew  
4 after the fact that she was working on First Federal  
5 of Fayetteville, Arkansas.

6 Q But you weren't assigned to work on, was it  
7 First Federal?

8 A Of Fayetteville.

9 Q Of Fayetteville?

10 A Yes, I was the professional liability  
11 attorney assigned to that case.

12 Q Okay. So am I correct that you did work  
13 with Ms. Lewis on Paragould and Savers Federal; is  
14 that correct?

15 A I would say that Jean and I were both  
16 assigned to those cases, but I will not characterize  
17 it as working with Jean.

18 Q Okay. And how would you characterize the  
19 situation with respect to First Federal of  
20 Fayetteville?

21 A I only knew after I had tried the case in  
22 Fayetteville, Arkansas -- a director and officer

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1 liability case out of that institution -- and after  
2 the verdict was in, adverse to the RTC, that Jean was  
3 working on criminal matters associated with that  
4 institution.

5 Q So, these are the only -- the only three  
6 institutions that both you and Ms. Lewis had some  
7 involvement or assignment to in common?

8 A That I can recall right now.

9 Q Okay. When were you assigned to work on  
10 the Paragould thrift?

11 A Immediately after I began at RTC in April  
12 of 1991.

13 Q What about Savers Federal?

14 A That's the same.

15 Q The same. And First Federal of  
16 Fayetteville?

17 A Also at that time.

18 Q So all three you were given when you  
19 essentially walked in the door?

20 A Correct.

21 Q Now, you were in PLS section, Ms. Lewis was  
22 in criminal investigations section; what's the



1 typical kind of interaction that someone in PLS would  
2 have with someone in criminal investigations with  
3 respect to a particular thrift?

4 Let me tell you what I am trying to get  
5 at. You are assigned to a thrift, and her  
6 investigation presumably has someone working on the  
7 same thrift. So is there some normal way in which  
8 investigations and PLS are supposed to be  
9 interacting?

10 A There were rules for how we were to be  
11 interacting, but I would not say that there was a  
12 typical relationship. It varied by criminal  
13 investigator.

14 Q What are these rules you were referring to?

15 A Well, my understanding was that on all  
16 criminal referrals, that -- the criminal coordinator  
17 at that time in 1991 when I began was a part of the  
18 commercial legal department. We were the criminal --  
19 criminal referrals were to go to that individual and  
20 they would be filtered to the professional liability  
21 attorney.

22 In practice, we tried to have a good

1 relationship with both the criminal and the civil  
2 investigators so that we could cooperate on our  
3 efforts to recover for the agency.

4 Q Okay. So Ms. Lewis didn't report to you?

5 A No, she did not.

6 Q And if I am understanding the situation  
7 correctly, the criminal investigations is sort of off  
8 doing their thing, and PLS is off doing its thing,  
9 but there is -- some attempts were made to share  
10 information, but that that was kind of on an ad hoc  
11 basis?

12 A I don't believe it was supposed to be that  
13 way. I believe that the referrals at that early  
14 point in time, in '91, and the rules did change and I  
15 was never a criminal coordinator, so I was never  
16 totally familiar with what all of those policies and  
17 procedures were, but it was my understanding as a  
18 line attorney working on professional liabilities  
19 matters that the criminal investigators would  
20 typically share their information with the  
21 professional liability section, the attorney  
22 assigned, so that we could coordinate our efforts and

1 recover the most for the agency.

2 Q Now, is it your understanding that that was  
3 supposed to happen at the time that a criminal  
4 referral was actually prepared?

5 A I am not sure I have an understanding on  
6 that.

7 Q Okay, but it is your understanding that  
8 once a criminal referral was prepared by  
9 investigations, they were supposed to, under the  
10 rules, share this with the PLS criminal coordinator?

11 A Well, the criminal coordinator in the early  
12 years was in the commercial legal division and not in  
13 professional liability. That changed at a later time  
14 and I don't really know what year that was.

15 But, PLS was to be copied on criminal  
16 referrals --

17 Q Okay.

18 A -- at some point in the process.

19 Q Okay. But in the time leading up to the  
20 actual preparation of a referral, is it -- did you  
21 have an understanding about what criminal  
22 investigators were supposed to do in terms of

1 providing information to PLS?

2 A No. I did not.

3 Q Was a criminal referral prepared on the  
4 Paragould S&L?

5 A There were several.

6 Q Do you know who prepared those?

7 A Those that I am aware of, and the only ones  
8 I am aware of were prepared by Jean Lewis.

9 Q Do you remember when those were prepared?

10 A They didn't all -- she did not finalize  
11 them all at the same time, but I can give you a  
12 period.

13 Q Sure.

14 A It was late 1991 through early 1992, would  
15 be my best recollection.

16 Q And just so we are clear, by "prepared" I  
17 mean they were actually formalized and signed off on,  
18 submitted.

19 A I'm using the word "prepared" differently  
20 than you are, I think.

21 Q Okay.

22 A I am using -- the dates I gave you are the

1 dates that I believe Jean drafted and submitted those  
2 referrals to be processed.

3 Q Okay, so you think that she was working on  
4 the referrals in late '91 through early '92 and that  
5 by early '92 she had finished them?

6 A And some of them had been submitted, I  
7 believe.

8 Q Some were submitted.

9 Now, were you also working on Paragould  
10 during that same time frame?

11 A Yes, I was.

12 Q Because you had been given it in April '91,  
13 and you started work on it soon thereafter?

14 A Immediately.

15 Q Immediately thereafter.

16 Now, I take it the reason that you are here  
17 is that there was some problem in connection with  
18 Paragould that you had with Jean Lewis; is that fair  
19 to say?

20 A No. The reason that I'm here is because  
21 you asked me to come here.

22 Q Well, for the record --

1 A Lance Cole asked me to come here.

2 Q For the record, Lance Cole is probably the  
3 catalyst.

4 Let me ask you this: Did you have a  
5 problem with Ms. Lewis in connection with Paragould?

6 A Yes.

7 Q What was the problem?

8 A It is a pretty broad question.

9 In my opinion, Jean was a total renegade on  
10 criminal matters out of that institution. She failed  
11 to share information with the professional liability  
12 section. And ultimately I was compelled to recommend  
13 a settlement on a fidelity bond claim that was far  
14 less than I think we otherwise would have gotten, due  
15 to the lack of a cooperation clause in the plea  
16 agreements on certain of the individuals associated  
17 with that institution, a borrower named George  
18 Collier and a former president whose name is Dan  
19 Kell.

20 In addition to that, no restitution was  
21 ordered. So it was necessary for the professional  
22 liability section -- and I did recommend a civil

1 fraud action be brought, an asset freeze against  
2 Dr. George Collier, C-o-l-l-i-e-r, and when I left  
3 the RTC, the legal fees on that particular civil  
4 fraud case were already in excess of a half a million  
5 dollars.

6 Q Okay, let's back up a little bit and take  
7 this a little more slowly.

8 You litigated a civil case against  
9 Paragould?

10 A There is a civil case on file presently,  
11 against Dr. George Collier, Dan Kell, and I think  
12 there are 18 or 19 nominee corporations named in that  
13 suit.

14 Q Are these the same actions you were  
15 referring to -- that you referred to where there was  
16 some problems associated with Ms. Lewis?

17 A The claims and the civil fraud claim that  
18 the RTC has on file are those same claims and actions  
19 that Dr. Collier pled guilty to, and that Jean Lewis  
20 discussed in her criminal referrals.

21 Q So, Ms. Lewis prepared criminal referrals  
22 relating to Collier, Dan Kell, and the gist of those

---

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1 referrals is the same basis as the currently pending  
2 civil fraud action against those same individuals?

3 A The underlying basis is the same.

4 Q Now, you said that -- withdraw that.

5 Is it your testimony that Jean Lewis --  
6 that she stood -- she did something which caused  
7 problems for the later civil fraud actions?

8 A It is my opinion that, as the criminal  
9 investigator associated with that institution, and  
10 one who was aware of everything that I was doing on  
11 the fidelity bond side and on the civil fraud side,  
12 who -- Jean utilized all of our administrative  
13 subpoenaed depositions, documents, everything that  
14 was a work product of my investigation, and --

15 Q Okay.

16 A I would like to complete the answer.

17 Q Please do.

18 A And she did not make any effort, in my  
19 opinion, to cooperate and to help us with our civil  
20 claims by, number one, asking for a cooperation  
21 clause in the plea agreement, or number two, by  
22 asking and assuring the U.S. Attorneys that we would



1 seek restitution. We got neither.

2 Q You said earlier that she failed to share  
3 information with you. You knew that she was working  
4 on Paragould?

5 A I knew that in the late part -- early to  
6 late 1991 she was working on Paragould. What she did  
7 after that, sketchy at best.

8 Q When did you come to learn that she was  
9 investigating Paragould or Paragould-associated  
10 persons?

11 A I knew that she was investigating them in  
12 the time period I've identified, which was the summer  
13 through fall of 1991, then really I heard very rarely  
14 from Jean about that investigation.

15 Q Did you have any conversations with her  
16 about how her investigation was progressing?

17 A When she needed something from me I heard  
18 from her.

19 Q Okay, did you initiate any conversations  
20 with her about --

21 A Yes. When I -- at various times when I  
22 realized that negotiations, plea negotiations were

1 ongoing, I would call Jean. When I was attempting to  
2 settle the fidelity bond claims, various meetings we  
3 had in Kansas City with the carrier, I would call  
4 Jean and let her know about that and ask her how her  
5 investigation was going. It was occasional. Nearly  
6 always initiated by me.

7 Q Would you explain to me what you mean by  
8 the "fidelity bond claims"?

9 A Many -- I think all financial institutions  
10 are required to carry a financial institution bond,  
11 which insures the fidelity, honesty of their  
12 employees, and it is an insurance policy for the  
13 institution that covers fraud and misconduct and  
14 other dishonesty of the employees of the  
15 institution.

16 And our claim on the fidelity bond with  
17 Lloyd's of London out of First Federal of Paragould  
18 included the criminal matters that Jean was  
19 investigating also.

20 Q Did Ms. Lewis ever fail to provide you with  
21 information when you asked her for it?

22 A Yes.

1 Q When did that happen?

2 A I could give you specifics if I had records  
3 to look at, but I asked her for plea agreements,  
4 press releases, those sorts of things on Paragould,  
5 and it was rare that I got them without multiple  
6 requests.

7 Q Okay, are you saying that you didn't get  
8 them or that it required a little teeth pulling?

9 A Sometimes I didn't get them from her. I  
10 would have to get them from other individuals. I  
11 ultimately got most of the information I wanted, but  
12 not usually from Jean.

13 Q Did you ever -- well, did you ever talk to  
14 Jean specifically about what you perceived to be the  
15 problems with getting information from her?

16 A Ultimately, yes.

17 Q When did you do that?

18 A It was just prior to -- or it was at the  
19 time that RTC submitted its victim impact statement,  
20 before Dan Kell was to be sentenced. We had a  
21 conversation with the Assistant United States  
22 Attorneys that were responsible for that

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1 prosecution. The criminal coordinator in our office,  
2 Karen Carmichael, Jean Lewis and myself.

3 Q Do you remember what time that was?

4 A What time of day?

5 Q No --

6 A Date?

7 Q Yes, what date.

8 A I believe that it was in late 1992, but it  
9 could have been early '93, within a few months.

10 Q What did Ms. Lewis say when you raised  
11 these complaints to her about her failure to  
12 cooperate in providing information?

13 A It wasn't exactly raised in that direct a  
14 fashion.

15 We -- Jean called Karen Carmichael and I,  
16 told us that she had two very angry United States  
17 Attorneys, Assistant United States Attorneys on the  
18 other line, that they were very unhappy that we were  
19 asking for cooperation and for restitution in the  
20 plea agreement, that they considered that to be  
21 outside of what they had promised to the RTC, or had  
22 agreed to do for the RTC, and that she was going to

1 conference them in with us.

2 At some point during the conversation, Jean  
3 was no longer on the line. Karen and I were on a  
4 speakerphone. I was discussing my confusion over why  
5 the AUSAs were not willing to help us, when in most  
6 jurisdictions we got that sort of assistance.

7 They had been listening to the telephone  
8 conversation, did not like the speculative comments I  
9 was making about them, and it turned out to be a  
10 political faux pas.

11 Q Who were these AUSAs?

12 A Ken Stoll, S-t-o-l-l, and Pat Harris.

13 Q You told me you made some comments about  
14 them which they heard which they subsequently didn't  
15 receive well?

16 A That's correct.

17 Q What were those comments?

18 A I was speculating that they somehow were  
19 good friends with Dan Kell's attorney, who was a  
20 former AUSA, and in my mind that's the only reason  
21 why they could be treating us the way they were.

22 Q So you implied that they were going soft on

---

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1 Dan Kell because of some relationship with Kell's  
2 attorney?

3 A I was speculating, because, frankly, I was  
4 astounded that they were acting the way they were.

5 Q And tell me again what the gist of their  
6 complaint was when they called and they were very  
7 angry.

8 A Their complaint was that we had sent our  
9 victim impact statement directly to the judge without  
10 sending it to them first for their review, and that  
11 in our victim impact statement we were requesting  
12 cooperation and restitution, things that they were  
13 not prepared to ask the judge to order against Dan  
14 Kell.

15 Q What is a victim impact statement?

16 A The victim of a crime before sentencing in  
17 federal court has the opportunity to make a  
18 statement -- in written form sometimes, sometimes in  
19 person. RTC makes written statements, victim impact  
20 statements asking for compensation for the wrongdoing  
21 that the institution has suffered.

22 Q Who would have been the victim in that

1 particular case?

2 A The institution, First Federal of  
3 Paragould, Arkansas, which is why RTC, as receiver  
4 for that institution, is drafting the victim impact  
5 statement.

6 Q I see.

7 And who is responsible within the RTC for  
8 preparing the victim impact statements?

9 A I believe that that particular victim  
10 impact statement was drafted by the criminal  
11 coordinator, Karen Carmichael, but I know at some  
12 points in time criminal investigators draft; it is  
13 not necessarily what final product is, but they have  
14 involvement in it.

15 Q Okay, so if I understand you to this point,  
16 the criminal coordinator, who was Karen Carmichael,  
17 drafted a victim impact statement on Paragould, sent  
18 it directly to the judge, and the statement requested  
19 cooperation and restitution, and this is what angered  
20 the Assistant U.S. Attorneys?

21 A Yes. I think Jean Lewis had some  
22 involvement in drafting or in the content of that

---

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1 statement.

2 I was out of town or normally I would have  
3 had involvement in it as the line attorney. I spoke  
4 with Karen on the telephone about it. I don't  
5 remember where I was, but I wasn't in the office.

6 Q Okay, since Paragould was your institution,  
7 but Karen drafted the statement, what sort of -- what  
8 sort of cooperation did you go through in order to  
9 prepare it -- in order for Karen to prepare it?

10 A Normally, under normal circumstances, she  
11 would solicit factual information, legal information  
12 on the claims from the line attorney responsible.  
13 She had to work with my outside counsel on that, and  
14 with me over the telephone after she had put it  
15 together in order to get the facts because I wasn't  
16 there to help her with the facts. And my  
17 understanding is that she also spoke with Jean Lewis  
18 about the content of that statement.

19 Q Is a victim impact statement ordinarily  
20 sent directly to the judge in the case?

21 A I believe that the procedure now, and then  
22 also, was that it went to the AUSA first, and then to



1 the judge, but with the caveat that if the AUSA did  
2 not appear to be in a position to protect RTC's  
3 interests, we could bypass sending a preliminary copy  
4 first to them.

5 Q Do you know why Karen Carmichael sent this  
6 victim impact statement, the Paragould one, directly  
7 to the judge?

8 A For the reason I just gave you. It is my  
9 understanding that she spoke with, I think Tracey  
10 Whittaker, and maybe Gregg Golden in Washington, who  
11 were people who worked in the criminal unit in the  
12 Washington office of RTC, about the difficulties she  
13 was having with the AUSA's unwillingness to ask for  
14 the kinds of relief that we wanted. And they  
15 instructed her that there appeared to be no useful  
16 purpose, I think, to send it to them early and that  
17 she could send it directly to the judge.

18 Q So, a conscious decision was made not to  
19 let the AUSAs review the victim impact statement  
20 prior to its submission to the judge?

21 A I have no personal knowledge of that, but  
22 that is my understanding.

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1 Q Okay, how do you come by way of that  
2 understanding?

3 A What I was later told, in the conversation  
4 the following day with the AUSAs when they were not  
5 happy with us.

6 Q So they were upset that the statement had  
7 been sent to the judge, bypassing them. It requested  
8 certain things which they weren't interested in  
9 having requested?

10 A Correct.

11 Q Where does Jean Lewis figure in this  
12 brouhaha?

13 A They advised us -- the AUSAs told us that  
14 Jean had represented to them that the RTC didn't have  
15 any interest in those things, it had never been  
16 discussed, and that it was totally off the wall to  
17 them, that we, professional liability, should then  
18 ask for things that they had been led to believe by  
19 Jean Lewis would never be requested.

20 Q Did you ever have a conversation with Jean  
21 Lewis about whether she made that representation to  
22 the AUSAs?

1 A I was a party to a conversation which  
2 followed the one with the AUSAs that same afternoon  
3 with J.T. -- James Thompson -- Julie Yanda, Richard  
4 Iorio, Karen Carmichael, the two AUSAs involved and  
5 Jean Lewis and I.

6 Q And did someone confront Ms. Lewis with the  
7 question of whether she had said that to the AUSAs?

8 A No, but the AUSAs, I believe in that  
9 conversation, expressed to J.T. the reason that they  
10 were upset was because the request from professional  
11 liability came out of thin air, because RTC that had  
12 been dealing with them, Jean Lewis, had never made  
13 that request earlier or suggested that it would ever  
14 be desired.

15 Q Tell us what request you are talking  
16 about.

17 A Cooperation and restitution.

18 Q And so in this conversation that you are  
19 just describing, is it your testimony that the AUSAs  
20 said that Jean Lewis told them that the RTC had no  
21 interest in these requests?

22 A That's my recollection.

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1 Q And did Ms. Lewis respond to that?

2 A No. It would be unlike Jean to do that.

3 Q Well, that seems odd to me, and I am just  
4 trying to have you help me understand what was going  
5 on here. The -- it sounds like you are telling me  
6 that the nub of this controversy was not discussed  
7 with Ms. Lewis at that meeting?

8 A It was not a meeting. It was a telephone  
9 conference and it was a telephone conference to  
10 smooth ruffled feathers of the AUSA in Little Rock,  
11 who were very upset with us at the time. It was a  
12 telephone conference for me to apologize for my  
13 speculation. It was a telephone conference to let  
14 them know that we needed to work together on matters,  
15 and that we intended to do that in the future, that  
16 it was an unfortunate incident and one we hoped to  
17 correct in the future.

18 Q So, at this telephone conference, I take it  
19 everyone but the AUSAs are in one room, and the AUSAs  
20 are wherever they are on the phone?

21 A No.

22 Q No?

1 A Investigations was not in the same building  
2 with us. Investigations at that time was at 4800  
3 Main Street in Kansas City, Missouri and our offices  
4 were in Overland Park, Kansas, and J.T.'s office was  
5 in another building in Overland Park, Kansas, so we  
6 were in multiple locations.

7 Q So PLS, your unit, was not physically  
8 housed in the same building with criminal  
9 investigations?

10 A That's correct.

11 Q The name of the city you just mentioned,  
12 Over --

13 A Overland Park, Kansas. It's a suburb of  
14 Kansas City.

15 Q Criminal investigations is in Kansas City,  
16 PLS is in Overland Park?

17 A Was at that time.

18 Q Was at that time, or a suburb thereof. And  
19 the AUSAs were directing their anger primarily at  
20 who?

21 A At PLS.

22 Q At PLS. So this incident was one which

1 caused you some personal embarrassment?

2 A No. But it caused the agency a few hundred  
3 thousand dollars.

4 Q Well, you apologized to the AUSAs during  
5 the course of this conversation?

6 A At the instruction of my supervisor, yes, I  
7 did.

8 Q And that wasn't embarrassing to you?

9 A No.

10 Q Was it upsetting?

11 A No.

12 Q Just another day at the office?

13 A We had heated conversations occasionally.

14 Q Okay. Following this phone conference,  
15 which also followed the initial call from the AUSAs,  
16 it's your testimony that the cause of the problem  
17 was -- strike that.

18 The AUSAs told you in the initial  
19 conversation -- the call that they made -- that Jean  
20 Lewis had said the RTC wouldn't be requesting  
21 cooperation and restitution.

22 A Words to that effect.

1 Q Okay. And it is your belief that that was  
2 the source of this problem?

3 A Which problem are you referring to?

4 Q The AUSAs becoming angry over the victim  
5 impact statement?

6 A Initially, when they called, they were  
7 already "furious," were Jean's words, so I believe  
8 that they were in an angry mood when they placed the  
9 call.

10 Q But my question is you trace the source of  
11 their anger to a representation made by Ms. Lewis to  
12 them?

13 A Yes. Not a direct representation, perhaps,  
14 but led them to believe. In whatever way she did  
15 that, I can't say. I wasn't there.

16 Q Well, again, that's what you heard from the  
17 AUSAs?

18 A Correct. Jean, on the other hand,  
19 disclaims that.

20 Q So you had a conversation with Ms. Lewis  
21 about whether she made that statement to the AUSAs?

22 A No, but Jean and I had had conversations

1 prior to the victim impact statement about my  
2 attempts to get a cooperation clause in the plea  
3 agreements, and my frustration with the apparent  
4 inability or unwillingness of the AUSAs to give us  
5 that. At that point in time, she made comments to me  
6 like it is out of my hands, I have nothing to do with  
7 it.

8 Q But this conversation or conversations you  
9 are talking about was before the preparation of the  
10 victim impact statement?

11 A Yes.

12 Q And based upon that you conclude that she  
13 told the AUSAs that the RTC wasn't going to be  
14 requesting cooperation and restitution?

15 A The AUSAs told us that.

16 Q I am asking you whether Jean Lewis ever  
17 told that you she said that to the AUSAs.

18 A No, she has not.

19 Q And you never asked her about it directly?

20 A I believe I did. And I believe her comment  
21 or response to me was it is out of my hands, I had  
22 nothing to do with it.



1 Q I thought that that comment was made prior  
2 to the preparation of the victim impact statement?

3 A That's correct, but the plea agreement was  
4 already drafted and signed, which is something  
5 different than sentencing. So, at two points in time  
6 I tried to get cooperation and restitution. At the  
7 point in time which I believed to be prior to the  
8 plea agreements being drafted, what Jean Lewis did  
9 not tell me when I had those conversations with her  
10 was that the plea agreements had already been signed,  
11 and she had been having personal meetings with Dan  
12 Kell, the president, which she also didn't tell me  
13 about.

14 Q But at the time that you were talking to  
15 Jean Lewis about your desire to include these  
16 requests, it is your belief that the plea agreement  
17 was already a done deal?

18 A That's correct.

19 Q Did you ever communicate with the AUSAs  
20 about your desire to have these provisions put in?

21 A Yes, I did.

22 Q What did they say?

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1 A You are not getting it. It was never  
2 represented to us by the RTC that they had any  
3 interest in that.

4 Q Who would have been responsible for  
5 communicating to the AUSAs that the RTC did want  
6 this, these clauses in the plea agreement?

7 A In an ideal world, you have cooperation  
8 between the agencies and the investigators and the  
9 attorneys at which point everyone would be in  
10 agreement that that's what you are going get. Jean  
11 Lewis, in this particular incident, was the one who  
12 was in virtually constant contact with the AUSAs in  
13 Little Rock, Arkansas.

14 She was the one, I believe, who had the  
15 opportunity to make it clear to them that we needed  
16 to have that protection, because I had certainly told  
17 her that many, many, many times during the  
18 investigation. Initially, when we began that  
19 investigation, when Jean first started at the RTC, we  
20 agreed between ourselves that I would include her on  
21 all of my administrative depositions, I would share  
22 documents with her, I would include her on

1 scheduling, and I did those things.

2 She took the information and used it to  
3 draft her referrals, and had no use for me when I no  
4 longer had those things to offer to her. And she did  
5 not, in my opinion, comply with our initial  
6 agreement, which was we are going to share and  
7 cooperate on this, with the criminal and the civil,  
8 because they were so closely tied together.

9 Q So if I understand what's going on, you've  
10 got the Assistant U.S. Attorneys in the Department of  
11 Justice reaching plea agreements with Dan Kell. Jean  
12 Lewis in criminal investigations had been  
13 investigating Mr. Kell and Paragould. You were  
14 responsible for investigating -- excuse me, not  
15 investigating, but pursuing civil claims arising out  
16 of Paragould. And so ultimately there was a failure  
17 to include in the plea negotiations a couple of  
18 clauses which would have been beneficial to your  
19 civil mission; is that an accurate statement?

20 A I don't think it was a failure to include.  
21 I think it was deliberate.

22 Q I mean, it was not included was all I meant

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1 to say.

2 A I believe that everything that you said is  
3 correct.

4 Q The restitution and cooperation paragraphs  
5 were ones which would have advanced the mission of  
6 PLS?

7 A Would have advanced the mission of the RTC,  
8 which is to collect for the taxpayers back everything  
9 we can. Criminal convictions do not necessarily help  
10 taxpayers.

11 Q I can also see why they would, but -- but  
12 it was the job of PLS to pursue civil claims arising  
13 out of insolvent thrifts?

14 A Yes, we had civil jurisdiction.

15 Q To recover money?

16 A Correct.

17 Q Now, at -- also, so that we are clear here,  
18 was there a specific point at which you told  
19 Ms. Lewis, hey, you are dealing with the AUSA on the  
20 Kell case, I want a cooperation and restitution  
21 provision put into the plea negotiation?

22 A Yes. There was. I can't give you a date.

1 It was at the point in time that we were attempting  
2 to settle the financial institution bond claim.

3 We had -- we needed Kell's testimony to  
4 overcome some legal obstacles to recover on that  
5 claim. And I made Jean aware of that on more than  
6 one occasion.

7 Q Can you give me some time frame for when  
8 that communication occurred, because it does seem to  
9 me important to know when that was made.

10 A Well, it was after her referrals, which  
11 were, you know, in early to mid-1991, and before  
12 Kell's sentencing, which I believe was in late 1992.  
13 I think I got my years wrong.

14 It would be sometime -- yes, late 1991 is  
15 when she was drafting her referrals, and Kell was  
16 sentenced the following year. That's about as far as  
17 I can narrow it without having some other documents  
18 to refresh my recollection.

19 Q Okay. Now, you testified it was the  
20 criminal coordinator, who for that case would be  
21 Karen Carmichael, who was responsible for drafting  
22 the victim impact statement; is that right?

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1 A Yes, but Karen was not criminal coordinator  
2 just for that case, she was criminal coordinator for  
3 the professional liabilities section in Kansas City  
4 at that time.

5 Q She was criminal coordinator for all of  
6 them?

7 A Correct.

8 Q So that would have included Paragould.  
9 And did there come a point in time in which  
10 you communicated to Karen that you wanted those two  
11 provisions put in?

12 A Yes. When she called me when she was  
13 drafting the victim impact statement, had it in draft  
14 form, reached me wherever I was -- and, I'm sorry, I  
15 can't remember where I was at that time, but I was  
16 out of town, and I asked her to do that at that point  
17 in time.

18 Q So that was shortly before the victim  
19 impact statement was sent to the judge?

20 A Yes.

21 Q I take it that means this was shortly  
22 before the -- Mr. Kell was sentenced?

1 A Yes.

2 Q Okay, so the way the procedure works, there  
3 was already a plea bargain that was reached, but then  
4 there's a time before sentencing --

5 A Yes.

6 Q -- where a victim impact statement is  
7 submitted?

8 A Yes.

9 Q So, the -- so prior to the reaching of the  
10 agreement, the plea agreement, you had never told  
11 Ms. Carmichael that you wanted to have these  
12 cooperation and restitution clauses put into the --  
13 put into the victim impact statement?

14 A We had a pretty small section and a pretty  
15 small office and we frequently discussed the problems  
16 that we were having with legal issues evolving, other  
17 kinds of problems like that. It was known in my  
18 section that I was having a lot of problems on the  
19 Paragould case with Jean Lewis because I had been  
20 having this battle at the time of the plea  
21 agreements, and then at the point of the sentencing.  
22 So Karen was probably aware of that. She had the

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1 office next to me. I'm sure I mentioned it to her at  
2 one point or another.

3 Q Well, when I first asked you, did you tell  
4 Karen that you wanted the clauses put in, you said  
5 yes, and you referenced the time where she was  
6 drafting --

7 A Yes.

8 Q -- the victim impact statement.

9 But it is your testimony now that you think  
10 you said that to her at a prior time?

11 A Would you read his question back. I think  
12 he asked me a different question than that.

13 (The reporter read the record as requested.)

14 MR. BARTOLOMUCCI: Back on the record.

15 BY MR. BARTOLOMUCCI:

16 Q Just to clarify some confusion we may have  
17 had, the question I want to ask is: When did you  
18 first communicate to Ms. Carmichael that you wanted  
19 cooperation and restitution to be part of the Dan  
20 Kell victim impact statement?

21 A I can't answer that because I never had a  
22 specific business reason to discuss that with Karen



1 Carmichael, but I believe that she was aware of it  
2 because of conversations with -- that she was  
3 involved in in the section, at meetings and the like,  
4 where these issues were raised.

5 Q Okay. Now, am I right that you told us  
6 earlier that Karen Carmichael didn't tell the AUSAs  
7 that she was going to include these two paragraphs in  
8 the victim impact statement prior to sending it to  
9 the judge?

10 A I don't think she did. But you would  
11 really need to ask Karen that.

12 Q Well, we have you here, so we are doing the  
13 best we can.

14 It was also your understanding that that  
15 was a deliberate choice that was made?

16 A That's my understanding.

17 Q Because PLS felt there would be a problem  
18 with communicating that desire to the AUSAs?

19 A Because PLS believed, it is my  
20 understanding, that the AUSA was not going to help us  
21 get those things and that they really were not  
22 cooperating with us, and so therefore it was within

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1 the purview of the criminal coordinators to bypass  
2 them and go directly to the judge under their  
3 current -- their then-existing policies.

4 Q Okay. Well, what happened when -- after  
5 the victim impact statement with those clauses was  
6 sent to the judge?

7 A Well, the AUSAs called.

8 Q I guess I am asking what did the judge do?

9 A The judge did not order restitution and did  
10 not order cooperation.

11 Q Was that result related to the -- to some  
12 action on the part of the AUSAs to fail to support  
13 that request?

14 A I couldn't answer that. You would have to  
15 talk to the sentencing judge.

16 Q Well, I mean what do you know about how the  
17 decision was rendered? The victim impact statements  
18 were submitted, and then at some point the judge  
19 didn't order cooperation and restitution. Do you  
20 have any knowledge as to why that was?

21 A No, I don't.

22 Q Do you know if there was any sort of

1 argument before the judge on those issues?

2 A I don't know that. I did not attend a  
3 hearing.

4 Q Now, in -- strike that.

5 You said there are pending civil fraud  
6 claims against Mr. Kell and Mr. Collier; is that  
7 right?

8 A There were when I left a month ago.

9 Q Okay. And so as of the time you left, they  
10 were ongoing?

11 A Yes.

12 Q If those actions are successful, will they  
13 yield the same result as a restitution order?

14 A That would be pure speculation on my part.  
15 I have no idea.

16 Q My question is: The restitution request  
17 would have been one to have Kell pay money for the  
18 harm he had done; right?

19 A Correct.

20 Q And that's also the object of the civil  
21 suit?

22 A Correct. But the money we are targeting

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1 largely belongs to -- we believe Dr. Collier has it  
2 now.

3 Q But let's stick with Kell for the moment.

4 So, it is at least possible that the civil  
5 suits -- the civil suit against Kell will reap the  
6 same return as the restitution order would have?

7 A Anything's possible.

8 Q I mean, you are going after the same thing,  
9 though; right?

10 A Yes. And spending a lot of money in legal  
11 fees to do it.

12 Q Now, was the problem that you have just  
13 described with the AUSAs and the victim impact  
14 statement and these two clauses all related to Dan  
15 Kell, or was it Kell and Collier jointly?

16 A There were referrals on both of them  
17 pending at the same time. The negotiations did not  
18 coincide with -- for the plea arrangements.

19 Q Okay, but -- oh, so was it the Dan Kell  
20 case where the judge denied cooperation and  
21 restitution?

22 A As opposed to?

1 Q Collier?

2 A We did not ask for cooperation in Collier  
3 case. We did ask for restitution.

4 Q Was that achieved?

5 A No.

6 Q As of the time that the victim impact  
7 statement was submitted to the judge, what did you  
8 know about Mr. Kell's personal financial resources?

9 A Not much.

10 Q So you really didn't know at that point  
11 whether it would be possible to recover restitution  
12 from him?

13 A We did not know.

14 Q Possibly he could have been destitute?

15 A Anything is possible. He could have had \$6  
16 million.

17 Q Other than the ones you've described to me  
18 so far, was there any problem connected with both  
19 Paragould and Ms. Lewis?

20 A I don't understand your question.

21 Q Did you have a problem, a gripe against  
22 Ms. Lewis in connection with the Paragould matter,

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1 other than the ones we have been talking about so  
2 far?

3 A You know, there may be more facts  
4 associated with but basically those same issues, no.

5 THE WITNESS: Is this a good time for a  
6 break?

7 MR. BARTOLOMUCCI: If you want a break we  
8 will take one.

9 (Recess.)

10 BY MR. BARTOLOMUCCI:

11 Q Ms. Day, after the victim impact statement  
12 was submitted with the request for cooperation and  
13 restitution, to your knowledge did the AUSAs do  
14 something which made it less likely that the judge  
15 would award those things?

16 A I have no knowledge of that.

17 Q So if Jean Lewis had said to the AUSAs,  
18 look, we would like to include these two clauses or  
19 paragraphs, do you have any reason to believe that  
20 the judge would have ended up awarding those things?

21 A I only have reason to believe that the  
22 AUSAs wouldn't have been surprised by the request,

1 and I believe would have been more willing to go  
2 along with it if it had been discussed from the  
3 outset.

4 Q Well, when you say willing to go along with  
5 it, how did that really matter in this case? The  
6 requests were included in the victim impact  
7 statement; right?

8 A Well, that's two questions you've asked me.

9 Q Well, the question is: The request was  
10 included in the victim impact statement?

11 A Yes.

12 Q It went to the judge?

13 A Yes.

14 Q It was denied?

15 A Yes.

16 Q For reasons unknown to you?

17 A Yes.

18 Q So, then, the question is: What reason do  
19 you have to believe that things would have been any  
20 different if Jean Lewis had told the AUSAs that we  
21 want these in there?

22 A In my experience, when an assistant United

1 States Attorney or a United States attorney makes a  
2 request, and it's a joint request, they have  
3 influence with judges to get those things  
4 accomplished.

5 I think there was -- there would have been  
6 a far greater likelihood that if they had asked for  
7 that, that it would have happened, than if they had  
8 been opposed to that, which they were in this case.

9 Q So you think the failure to be awarded  
10 restitution and cooperation may be traceable to the  
11 fact that it was not a joint DOJ/RTC request?

12 A I believe that may be true.

13 Q But it's true, isn't it, that  
14 Ms. Carmichael didn't even tell the AUSAs that she  
15 was going to be including these requests in the  
16 victim impact statement?

17 A That's true, but they knew in advance of  
18 the sentencing hearings.

19 Q But at that point, they decided not to  
20 support it, not to go along with it?

21 A They decided that much earlier than the  
22 sentencing hearing.



1 Q But there had been the conscious decision  
2 made not to tell them that those would be included in  
3 the victim impact statement?

4 A The RTC had made that decision, yes.

5 Q So, if you think that a joint request has a  
6 better probability of success, then wouldn't you want  
7 to give the AUSAs, the Department of Justice, a  
8 heads-up about it, rather than sneaking it in there?

9 A They had already told us at the time of the  
10 plea agreements that they emphatically would not  
11 include a cooperation provision in those agreements.

12 Q And that was at what point, prior to the  
13 victim impact statement submission?

14 A Yes.

15 Q And who did they tell that to?

16 A Me.

17 Q And they said that was -- was this the --  
18 the angry phone call that you received?

19 A No. It was earlier, at the time of the  
20 negotiation of the -- what I thought was the  
21 negotiation of the plea agreement, but, in fact, it  
22 had already been signed.

1 Q Okay, and explain for me why they said they  
2 weren't going to support that.

3 A Because it had never been requested  
4 before. It was not part of the deal. They weren't  
5 going to do it.

6 Q The deal had or had not been reached by  
7 that point? That is the deal with Kell.

8 A I didn't know that, but the plea agreement  
9 had already been signed.

10 Q So their position, in essence, was it is  
11 too late to cut that deal with Mr. Kell?

12 A No. That wasn't their position. Their  
13 position was we are not going to ask for it. They  
14 didn't tell me they already had a signed plea  
15 agreement.

16 Q Would it have been necessary for them to  
17 incorporate that within the plea agreement for it to  
18 be -- for them to support those requests before the  
19 judge?

20 A They had a provision in the plea agreement  
21 that required Kell to cooperate with the United  
22 States government. I called either Pat Harris or Ken

1 Stoll -- and I can't remember which one it was -- and  
2 I asked him if he would make it clear at the  
3 sentencing hearing or by an addendum to the agreement  
4 or by a conversation with Bud Storey or whomever,  
5 that RTC was included within the United States  
6 government, and he said no. He would not do that.

7 Q Because it was the first he had heard of it  
8 or --

9 A Because he said that wasn't part of the  
10 deal.

11 Q Did you ask him why it couldn't now be made  
12 part of the deal?

13 A Yes.

14 Q What did he say about that?

15 A He wasn't going to make it part of the deal  
16 because it was a new term in his mind, and one that  
17 he was not willing to deal with.

18 Q And was it this which caused you to suspect  
19 that he may have had some relationship with Kell's  
20 attorney which was causing him to oppose this?

21 A I chose at that point in time to believe it  
22 wasn't our own people selling us out, that it had to

1 be somebody on the outside.

2 Q You thought at that point that the DOJ, the  
3 AUSAs were selling you out?

4 A Yes.

5 Q After whichever AUSA it was told you no, we  
6 are not going to support your request for cooperation  
7 and restitution, did you take this matter up with one  
8 of your supervisors?

9 A Yes.

10 Q Who did you go to?

11 A I am sure I talked to both Duane and  
12 Julie.

13 Q And you explained the situation to them?

14 A Yes.

15 Q What did they tell you?

16 A Try again. Call them directly. I talked  
17 to them before I made the calls, I talked to them  
18 after the calls. They said most jurisdictions have  
19 done this for us, we find it hard to believe that  
20 this is not going to happen, call them, explain to  
21 them, you know, that we've done it in the Western  
22 District of Missouri; we have done it in the Eastern

1 District of Missouri; we did it in lots of  
2 jurisdictions, and I did that.

3 Q And they were still opposed to it?

4 A That's correct.

5 Q And did they offer any reason besides,  
6 well, we've already reached the plea agreement and we  
7 are just not going to support this?

8 A Not other than the other reasons I've  
9 already testified to today.

10 Q Which are?

11 A Which are implying that RTC never asked for  
12 it. And now suddenly we were asking for something  
13 that had never been part of the deal.

14 Q Again, that's the deal with Kell?

15 A I don't know what they meant by that term.

16 Q So they said, no, we are not going to do  
17 it, that's not part of the deal, but you don't  
18 understand exactly what that means?

19 A I took it to mean part of their  
20 arrangements with the RTC.

21 Q Did you take it to mean that they just  
22 weren't in the business of seeking paragraphs, you

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1 know, provisions inuring to the benefit of the RTC?

2 A I took it to mean that they had worked with  
3 the RTC criminal investigator, Jean Lewis. That they  
4 had from the RTC everything that they needed to prove  
5 their case. That they had their plea agreement  
6 negotiated. That the RTC had never suggested to them  
7 that they were going to ask for cooperation and  
8 restitution. And that they weren't going to lose  
9 their deal, and their conviction, because RTC  
10 suddenly decided they wanted cooperation and  
11 restitution.

12 Q In this conversation when they told you  
13 they were not we're not going to support this, it is  
14 not part of the deal, did they mention Jean Lewis?

15 A I don't remember.

16 Q Do you remember how long a term -- strike  
17 that -- what sort of sentence Dan Kell received?

18 A He served six months in a halfway house and  
19 I think he had another year or two probation after  
20 that. It may have been a year. I think he served a  
21 year in a halfway house.

22 Q And then some probation?

1 A Yes.

2 Q What about George Collier?

3 A Same sentence.

4 Q Can you summarize briefly what they had  
5 done?

6 A Dr. Collier had multiple nominee  
7 corporations. They borrowed money -- he and Dan Kell  
8 pled guilty to bank fraud and conspiracy to commit  
9 bank fraud by exceeding the loans to borrower  
10 corporations, making loans to nominee corporations,  
11 and they didn't pay the loans back.

12 Q So Collier and Kell, among other things,  
13 borrowed more than they were permitted to borrow from  
14 a single institution?

15 A To one borrower. Kell didn't do the  
16 borrowing. Kell was the president of the  
17 institution.

18 Q Oh, I see.

19 A Dr. Collier was the borrower.

20 Q So Kell arranged for Collier to borrow  
21 large sums of money which were never repaid?

22 A Correct.

1 Q Do you have any complaints about Jean  
2 Lewis's involvement in the Savers Federal matter?

3 A I think there's something she didn't handle  
4 very well in that matter.

5 Q What were those things?

6 A We -- she somehow received -- I will tell  
7 you one particular incident. She received a phone  
8 call somehow from a former borrower of Savers whose  
9 name was R. Foy, F-o-y, Phillips. Mr. Phillips had  
10 been convicted of bank fraud in connection with I  
11 believe it was Southwest Savings in Texas. He lived  
12 in Houston, Texas.

13 He was going to be sentenced. He wanted to  
14 offer RTC cooperation on its civil claims that he  
15 knew were pending against the former officers and  
16 directors of Savers.

17 He thought that by offering help to the RTC  
18 to recover money in the civil lawsuit against the  
19 former officers and directors of Savers, that his  
20 sentence would be mitigated.

21 So, he expressed that to Jean Lewis. Jean  
22 Lewis called me and told me about Foy Phillips's



1 telephone call and we arranged to meet him in Houston  
2 and to talk to him about what information he might be  
3 able to provide that would help on Savers. She did  
4 not indicate to me in our telephone conversation that  
5 he was interested in the civil case that was already  
6 on file in Savers only.

7 So, Jean and I agreed to meet in Houston on  
8 March the 17th, which I specifically remember because  
9 it was St. Patrick's Day.

10 Q Do you know what year that was?

11 A I think it was '93.

12 And so I flew to Houston. I did not  
13 confirm, by the way. Jean said she would confirm  
14 with Mr. Phillips. So I flew to Houston that day to  
15 meet Foy Phillips, went to his office, he was not  
16 expecting me. Jean had rescheduled the meeting for  
17 her the next day, the following day, and so he had  
18 nothing available and nothing to talk to me about but  
19 we did speak briefly.

20 Then he told me he was interested in  
21 helping us with the civil claims. I explained to him  
22 that Jean was a criminal investigator, had nothing to

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1 do with the civil claims in Savers and really  
2 couldn't offer him any assistance in that capacity.  
3 So we worked with Mr. Phillips, paid for him to come  
4 up to Tulsa for an interview with our outside  
5 counsel. I wrote a letter to the sentencing judge on  
6 his behalf.

7 Jean went down the next -- the 18th or the  
8 19th, took a bunch of boxes from him, took them back  
9 to Kansas City. Did not advise me or anybody else  
10 that she had taken them.

11 When I wrote the letter to the sentencing  
12 judge on behalf of Mr. Phillips and told him that I  
13 thought it would be in RTC's best interest for him to  
14 remain mobile so that he could testify because we  
15 were set for trial and he had some testimony that  
16 would have been helpful to us in that case.

17 I received a phone call back from the  
18 United States Attorney Ian Dewaal in the Washington  
19 white collar fraud unit, who had prosecuted or gotten  
20 a conviction on Mr. Phillips -- I think he pled  
21 guilty, actually -- and he wanted to know who I was,  
22 why I was writing this letter, that he had already

1 spoken to the RTC person who was in charge of all  
2 civil matters arising out of Savers and that that  
3 person was Jean Lewis, and who the heck was I calling  
4 him and writing and doing anything? Which obviously  
5 surprised me since Jean is, first of all, not a  
6 lawyer, and secondly, not involved in any civil  
7 matters. And so I corrected him. And he  
8 discontinued talking with Jean after that.

9 Q What was this U.S. Attorney's name again?

10 A Ian, I think it is I-a -- maybe two As --  
11 -n, D-e-w-a-a-l, Dewaal.

12 Q So he was concerned, one, that you had sent  
13 this letter to --

14 A The sentencing judge.

15 Q Of Foy Phillips?

16 A Correct.

17 Q And that he didn't know who you were, why  
18 you were writing this letter?

19 A Right.

20 Q And he told you that he had been dealing  
21 with Jean Lewis, who he believed was the person in  
22 charge of civil matters related to Savers Federal?

1 A Correct.

2 Q Was he upset that a letter had been sent at  
3 all or just that he didn't know you were going to do  
4 it?

5 A He was upset that the letter was sent.

6 Q And why was that?

7 A He didn't want any leniency for Foy  
8 Phillips.

9 Q Had you ever, prior to that time, sent a  
10 letter to a sentencing judge requesting leniency --

11 A I don't believe I requested leniency,  
12 really, I just expressed to the judge that he was  
13 helping us, and that if he would have access to the  
14 records in advance of our trial it would be helpful  
15 to us. And no, I don't believe I had done that  
16 before.

17 Q Did you make the decision to send that  
18 letter on your own?

19 A Yes.

20 Q You didn't consult with any supervisors  
21 about it?

22 A I may have told Duane. I am not sure.

1 Q Did you make any effort to contact someone  
2 in the DOJ prior to sending the letter, about the  
3 notion that you would send one?

4 A No.

5 Q Did you not think they would be interested  
6 in knowing that you were going to do something like  
7 that?

8 A I thought they might be interested in it,  
9 but I wasn't asking for leniency, really. I didn't  
10 see a problem with it.

11 Q What was the purpose of the letter?

12 A To keep Mr. Phillips available as a witness  
13 at our trial, which at that point had been set. I  
14 can't remember what date, but we had a trial setting,  
15 and I wanted him to be available to help us go  
16 through the massive amounts of records and stuff that  
17 we had still not totally reviewed and explain the  
18 fairly complex transaction to us.

19 Q So your letter, did it request something of  
20 the sentencing judge?

21 A I would have to read the letter again. I  
22 don't recall that it actually requested anything. I

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1 think it just made the sentencing judge aware that  
2 Mr. Phillips was cooperating and that it would be  
3 helpful to us if he could remain accessible to us.

4 Q What do you mean by that, at liberty?

5 A No, just that perhaps he could be like in a  
6 halfway house or something, although I didn't ask  
7 that he be put in a halfway house, but that's what I  
8 was thinking.

9 Q Did you have some reason to believe that he  
10 couldn't be produced for use in your proceedings when  
11 the time came?

12 A It wasn't so much the concern as having him  
13 as a witness as having his assistance in going  
14 through a warehouse full of documents.

15 Q I see. You wanted him to not be in prison  
16 or similar circumstances so that he would be  
17 available to help with your investigation?

18 A Well, to help with our trial preparation.

19 Q Trial preparation.

20 Okay, so then you really were requesting  
21 something, that he not be made unavailable for -- to  
22 you?

1       A    I suppose indirectly. I didn't phrase it  
2 in those terms. It was more of a statement.  
3 Mr. Phillips had been convicted or pled guilty,  
4 whichever it was, years earlier. He just had never  
5 been sentenced. It had gone on for a long time and I  
6 didn't see, given those circumstances, that it would  
7 be that much to ask the judge to let him be available  
8 for another two or three months when he had already  
9 been out over two years.

10       Q   And was Mr. Dewaal angry that you had sent  
11 that letter?

12       A   Initially he was, but after I explained it  
13 to him he wasn't.

14       Q   What did you explain to him, just what you  
15 have told me, that you wanted him available,  
16 et cetera?

17       A   That's correct, and that we had a trial  
18 scheduled, and that he had not called us until very  
19 late in the game, and we just -- the volume of  
20 documents was too much for us to deal with to get any  
21 useful purpose out of without him.

22       Q   Did Mr. Dewaal say anything to the effect

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1 of why didn't you call me first?

2       A    I don't remember that.

3       Q   And tell me again, why you didn't try to  
4 contact whoever it was that was responsible for the  
5 Phillips case in DOJ?

6       A    I didn't see any reason to because I wasn't  
7 really interfering with their sentencing request. I  
8 didn't feel that.

9       Q   Did all of this happen before or after the  
10 Paragould matter?

11       A    It was sort of during. Paragould lasted  
12 for a while.

13       Q   I mean specifically the brouhaha with the  
14 U.S. Attorneys in the Paragould matter.

15       A    I think that this came first, but it was  
16 all very close together.

17       Q   After Dewaal had told you that Lewis had  
18 represented to him that she was the lead civil person  
19 on Savers Federal, did you talk to Lewis about it?

20       A    No, I talked to Julie and she talked to  
21 Richard Iorio. I believe that Julie may have talked  
22 to Richard.



1 Q So you told Julie, you believe she had a  
2 conversation with Mr. Iorio. Strike that.

3 Did you ever subsequently have a  
4 conversation with anyone about this matter, about  
5 Lewis's purported representation of herself as the  
6 civil leader on Savers Federal?

7 A I am sure I have, but I couldn't tell you  
8 who or when.

9 Q Well, did anyone tell you -- strike that.

10 Did anyone ever tell you what Lewis had to  
11 say about --

12 A No.

13 Q So, it is possible that Lewis really didn't  
14 say that?

15 A I have no reason to believe that she didn't  
16 say it.

17 Q All you have to really go on is -- well, I  
18 don't mean to -- all that you know of it is what you  
19 heard from Mr. Dewaal?

20 A That's correct.

21 Q And did Mr. Phillips subsequently become  
22 available to you for your trial preparation?

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1 A He helped us some, but then he did go serve  
2 time. I don't remember how much but we settled the  
3 case, so it became unnecessary.

4 Q But you never spoke to Lewis about what she  
5 had said to Mr. Dewaal?

6 A No.

7 Q From what you've described to me so far,  
8 you wrote the letter, Mr. Dewaal was a little  
9 concerned or upset that you had done that because he  
10 didn't know who you were. You explained your role  
11 and then he was fine with it, with what you had done?

12 A Yes. That's the way I recall it.

13 Q So, what is the source of your complaint  
14 against Ms. Lewis with respect to all this?

15 A It is difficult to work with people who you  
16 can't trust. And given the grief that I was going  
17 through at the time over Paragould, and another  
18 matter that had happened with Fayetteville, and then  
19 this happened, I had -- I was very concerned about  
20 the way Jean Lewis was representing herself to  
21 people, and representing -- representations that she  
22 appeared to be making on behalf of the agency.

1 Q Okay, but trying to set aside Paragould and  
2 problems in connection with any other S&L, just  
3 focusing on Savers Federal, really the concern that  
4 you had was about her possible misrepresentation  
5 to -- about her role to Mr. Dewaal?

6 A Well, first of all, I don't think you can  
7 set aside Paragould, because Paragould is what  
8 started the difficulties that I was having working  
9 with Jean Lewis, and so this was something that was  
10 thrown in in the middle of an ongoing problem with  
11 Paragould. So I think that it is unfair to take it  
12 out of that context, because my reaction was based  
13 upon that and a course of conduct.

14 Q Did there ever come a time where you just  
15 sat down or called Jean Lewis and said look, we need  
16 to work together on these things?

17 A There was a time that it was discussed in a  
18 public forum between Jean and I.

19 Q No, I am not asking about a public forum,  
20 but what I am asking is, did you take some steps  
21 directly with Lewis to try to resolve these problems  
22 you were having about information and sharing thereof

1 and that sort of thing?

2 A I did during the time that I was trying to  
3 get information about the plea agreements on  
4 Paragould, yes. I tried working with Jean, and we  
5 worked better, I think, on the victim impact  
6 statement than we did on Dr. Collier, which followed  
7 Kell, but there was a great amount of distrust.

8 Q At least on your side?

9 A Yes, I believe so. And not only on just my  
10 side, but our section.

11 Q You don't know what became of this  
12 conversation between Iorio and Yanda?

13 A I am not even sure there was a  
14 conversation.

15 Q You raised this with Ms. Yanda, and you  
16 think she might have called Iorio but you are not  
17 sure?

18 A That's correct.

19 Q Was there another problem, in your  
20 estimation, working with Jean Lewis on -- in  
21 connection with First Federal, Fayetteville?

22 A She had a problem with me on that one.

1 Q Why don't you tell us what that was.

2 A It was in, I believe, late February of  
3 199 -- I think it was 1992 but it might have been  
4 1993. We tried -- we were set for trial and actually  
5 did try a director and officer liability case against  
6 the former officers and directors of First Federal  
7 Savings & Loan of Fayetteville, Arkansas. We tried  
8 it in Fayetteville. It was the first case that the  
9 Kansas City office had ever gone to trial on, so  
10 everyone was abuzz about it, like investigations.

11 One of the civil investigators on that  
12 case, Leslie Tieszen, T-i-e-s-z-e-n, worked with  
13 Jean, and was friends with Jean, and Leslie attended  
14 the trial. She and I were in Fayetteville, Arkansas  
15 for about 10 days or so. The trial was a negligence  
16 case, simple negligence case. We had no allegations  
17 of fraud, misconduct, wrongdoing. If we had, we may  
18 have been able to win the case but we didn't have any  
19 information on that. I had never seen any criminal  
20 referrals on this case.

21 After the trial, after the verdict came in  
22 and we lost, our outside counsel, Lance Stockwell,

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1 made a statement to the press that he believed that  
2 the reason that we had not prevailed was that we were  
3 unable to show fraud, misconduct, insider abuse,  
4 dishonesty and that for that reason the jury did not  
5 find in our favor.

6 After he made that statement Jean Lewis  
7 sent -- apparently was in contact with the AUSA in  
8 Arkansas again -- and remember, the timing on this is  
9 within a week -- she received information from the  
10 U.S. Attorney in Arkansas and they said we are not  
11 going to pursue the criminal referral that you gave  
12 us on Delbert Alan, who was one of the defendants in  
13 our case, and the reason we aren't going to pursue it  
14 is because RTC through its outside counsel has  
15 already made statements that there was no fraud,  
16 there was no misconduct, there was no dishonesty, and  
17 so sorry but here is your referral we are not taking  
18 it.

19 She was unhappy about that. Sent a copy  
20 through E-mail or otherwise, I am not sure, to  
21 Richard Iorio. Richard sent it to J.T. It came to  
22 me. They were upset that I had allowed Lance

1 Stockwell to make those comments. But Jean had never  
2 copied any of us on the criminal referral; had never  
3 told me about the criminal referral; nobody in our  
4 section had any idea that this referral even  
5 existed. Obviously if I had known that there was a  
6 shred of evidence of that kind against one of my  
7 defendants, I would certainly have utilized it in the  
8 trial.

9 Q Let me stop you there and try to fill in  
10 some of the missing parts, at least that I see.

11 You said this trial was in either '92 or  
12 '93?

13 A I believe it was '9 -- gosh, maybe it was  
14 '92. No, I take it back. It was '93. We filed the  
15 lawsuit in '92, we tried it the next year in '93.

16 Q Do you know what month it was?

17 A Late February, early March.

18 Q Who were the defendants in the case?

19 A There were several of them. I will try to  
20 remember most of names. The name of the case is RTC  
21 against A.P. Eason, E-a-s-o-n, et al. Delbert Alan  
22 was a defendant, Joe Upchurch -- I may not be able to

1 remember the other names. There were seven or eight  
2 of them.

3 Q Okay. And you said that Lewis prepared a  
4 related criminal referral?

5 A She prepared a criminal referral on Delbert  
6 Alan in connection with -- I think it was a sale and  
7 lease-back of the office building that First Federal  
8 was in in Fayetteville alleging some criminal  
9 misconduct.

10 Q Her criminal referral was one about Delbert  
11 Alan and First Federal of Fayetteville?

12 A Yes.

13 Q Do you know when she prepared that?

14 A I don't. Before the trial.

15 Q When did you first learn of it?

16 A After the trial.

17 Q How long thereafter?

18 A Within a week.

19 Q And what was the allegation made in the  
20 criminal referral?

21 A I don't remember the specifics of it.

22 Q How about generally?



1 A I believe that he somehow profited by this  
2 refinancing and lease-back. I don't remember the  
3 specifics of it.

4 Q Had you ever -- strike that.

5 Did you ever read that criminal referral?

6 A After the fact. After the trial.

7 Q You did read it?

8 A Yes, I did.

9 Q You said you lost the case?

10 A We lost the D&O case, yes.

11 Q Against all the defendants?

12 A Yes.

13 Q And you said you were litigating a  
14 negligence theory?

15 A And gross negligence and breach of  
16 fiduciary duty.

17 Q So it was a suit against all insiders or  
18 directors for failing to properly manage the S&L?

19 A And underwrite particular loans, yes.

20 Q Now, who was this outside counsel you  
21 referred to?

22 A He worked at that time for a law firm

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1 called Boesche, B-o-e-s-c-h-e, McDermott,  
2 M-c-D-e-r-m-o-t-t, in Tulsa, Oklahoma.

3 Q And his name was Stockwell?

4 A Yes.

5 Q Do you remember his first name?

6 A Lance.

7 Q Lance Stockwell. So what was his actual  
8 role in the case?

9 A He was lead trial counsel.

10 Q So he actually did the trial itself?

11 A Yes.

12 Q And afterwards he made a statement that you  
13 referred to?

14 A To the press, to the local -- I think it  
15 was the Fayetteville Democrat-Gazette or something  
16 like that.

17 Q What exactly did he say, to the best of  
18 your recollection?

19 A The substance of it was that the defendant  
20 directors were not guilty of fraud, misconduct,  
21 insider abuse, personally profiting from anything.  
22 That it was just a negligence case.

1 Q Why did he make that statement?

2 A I believe that it was in connection with --  
3 you know, it is not a true savings and loan fraud  
4 case, and maybe that's why the jury didn't like it.  
5 I think it was just speculation on his part. I think  
6 he was asked why do you think you lost.

7 Q And he said it was because -- well, this is  
8 just a negligence or gross negligence case. We  
9 didn't have -- it wasn't a case about fraud for  
10 breach of fiduciary duty?

11 A I believe that's pretty much the substance  
12 of it, but you would have to really read the article  
13 to -- he did make the comment about no fraud in there  
14 for sure, which is what created the problem.

15 Q Say that again, please?

16 A He did make the comment about no fraud,  
17 which is what created the problem, I believe, with  
18 Jean.

19 Q So, to be precise here, he said there was  
20 no fraud as opposed to we didn't have proof of fraud?

21 A I can't say that for sure, not without  
22 reading the article again.

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1 Q I think earlier you said something to the  
2 effect that Lewis was unhappy that you had allowed  
3 Stockwell to make the statements?

4 A Yes.

5 Q What did you mean by you "had allowed" him  
6 to make the statements?

7 A I don't think she said it about me in  
8 particular. I think her comment was about PLS should  
9 control their outside counsel and make sure that they  
10 don't make statements to the press like this.

11 Q Had you been involved in any other case  
12 where outside counsel had made a statement to the  
13 press expressing reasons why the case had been lost?

14 A No.

15 Q Were you present when Stockwell made that  
16 statement?

17 A No.

18 Q How did you find out about it?

19 A When I got the information through Jean  
20 Lewis.

21 Q And the information was Jean Lewis  
22 expressing her displeasure that he had said this or

1 she was referencing a declination by the U.S.

2 Attorney?

3 A That -- yes, and blaming the declination on  
4 the fact that Lance Stockwell had made those  
5 comments, which is what the U.S. Attorney said, AUSA  
6 said.

7 Q What did you say to Ms. Lewis after she  
8 said that to you?

9 A I am not sure I ever talked to her about  
10 it. I don't know.

11 Q So, you and Lewis never had a conversation  
12 about the Stockwell comment and its relationship to  
13 the declination of her referral?

14 A I can't say that we never did, but I don't  
15 recall ever talking to her about it.

16 Q Now, is it your testimony that she  
17 concealed the existence of this referral from you?

18 A No. I didn't use the word "conceal."

19 Q I am asking you whether that's your  
20 testimony?

21 A She never -- she did not forward it to me.

22 Q Was it her practice to forward referrals to

1 you?

2 A No.

3 Q Were these -- was there any sort of  
4 computerized record of referrals which had been  
5 prepared or submitted that you would have had access  
6 to?

7 A No, not that I had access to.

8 Q Are you saying there was a computerized  
9 record?

10 A There is now.

11 Q Was there then?

12 A I don't know. I don't know.

13 Q Was there someone on the PLS side who was  
14 responsible for keeping track of what criminal  
15 referrals were being prepared?

16 A The criminal coordinator.

17 Q Karen Carmichael?

18 A I don't know if she was then. She might  
19 have not been in the Kansas City office yet. I can't  
20 remember. It falls in between there.

21 Q But there was a criminal coordinator?

22 A Yes.

1 Q And she is really sort of the liaison  
2 between PLS and criminal investigations; is that  
3 accurate?

4 A I think it is designed to be that way.

5 Q Okay. You don't remember who the criminal  
6 coordinator was, though, at the time of the cite  
7 against Eason, et al.?

8 A I really don't. I'm sorry. It switched  
9 around in there sometime.

10 Q Do you know if Karen Carmichael was in the  
11 Kansas City office at that time or the Overland  
12 office?

13 A Karen Carmichael came to Kansas City when  
14 the Tulsa office closed.

15 Q Which was when?

16 A That's the question I can't answer. If I  
17 could answer that question I could tell you who the  
18 criminal coordinator was.

19 I think -- I think they came to Kansas City  
20 in the summer of '93, I believe.

21 Q Wasn't Lewis in the Tulsa office?

22 A Initially, until they closed and then she

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1 came to Kansas City.

2 Q I think you told me that she came over to  
3 Kansas City in June or July of '91?

4 A No, that's when she started in Tulsa.

5 Q So you -- I think I had asked you when did  
6 you meet her, and you met her when she was in Tulsa  
7 at the time?

8 A Yes.

9 Q Did Karen Carmichael have any involvement  
10 in this lawsuit that we are talking about, the Eason  
11 case?

12 A No.

13 Q Did you ever ask anyone, prior to the onset  
14 of the case, whether there was a criminal referral  
15 that might be related to it?

16 A In a more generic context, I know that I  
17 had discussions that Leslie Tieszen was included in  
18 about how we needed to have stronger evidence to make  
19 our case better -- evidence of fraud, misconduct,  
20 that sort of thing -- and she worked in  
21 investigations.

22 Q Leslie was in criminal investigations?



1 A No, she was a civil investigator.

2 Q Civil investigator. So she didn't have  
3 anything to do with the preparation of the referral  
4 or is that true?

5 A Not to my knowledge. I don't know. Not to  
6 my knowledge.

7 Q You never asked anyone, is there a criminal  
8 referral related to our civil case?

9 A No.

10 Q Were you the lead PLS attorney on this  
11 case?

12 A On the Fayetteville case?

13 Q Yes.

14 A I was the only PLS attorney on that case.

15 Q And did you ever make any inquiries as --  
16 of the criminal investigators as to whether they had  
17 done any work on that institution?

18 A No, I would have no reason to. I mean, if  
19 we had referrals they would have been in my files.  
20 They weren't in my files.

21 Q Why do you -- why is it your understanding  
22 that they would have been in your files?

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1 A They were supposed to be forwarded to us.

2 Q Okay, so what you are telling me is that  
3 every criminal referral was supposed to be forwarded  
4 to you?

5 A That's correct.

6 Q Would they go to you personally or to  
7 first -- first to someone else in PLS who then, say,  
8 doled them out to the attorneys responsible for the  
9 particular thrifts?

10 A Well, that varied depending upon whether it  
11 was before the criminal coordinator was in PLS or  
12 after the criminal coordinator was in PLS, because  
13 when the commercial legal department had the criminal  
14 coordinator responsibility, it will normally just  
15 copy the PLS attorney with it in interoffice mail or  
16 whatever.

17 Q So you are saying there were two different  
18 policy regimes about the transfer of the criminal  
19 referrals from criminal to PLS?

20 A I can't tell you what the policies were  
21 because I was never subject to those policies. I can  
22 tell you what the practice was.

1 Q And are you saying that -- strike that.

2 To your knowledge, did you receive every  
3 other referral that criminal investigations prepared  
4 with the exception of First Federal?

5 A No, I have no assurance that I received all  
6 of them.

7 Q But you received some?

8 A Yes.

9 Q But you don't know whether that would have  
10 been some, most or 99 percent?

11 A I don't know, but I believe it to be most,  
12 based upon information I have later seen, database  
13 entries of referrals that have been made.

14 Q I want to go back to the point about what  
15 inquiries, if any, you made with criminal  
16 investigators. Once you got the case, you knew you  
17 didn't have a criminal referral relating to First  
18 Federal, Fayetteville.

19 Did you wonder whether there might be any  
20 in progress?

21 A We had many, many cases where there were no  
22 criminal referrals. Many institutions.

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1 Q So you never asked anyone on the criminal  
2 side are you working on First Federal?

3 A No.

4 Q Did you ask anyone in PLS, do you know if  
5 criminal is investigating First Federal?

6 A I would have no reason to do that.

7 Q Isn't it possible that the criminal  
8 investigators would be pursuing an investigation that  
9 might be related to your work?

10 A That's right, and if so, they should  
11 provide me with that information.

12 Q And why would they know what you were  
13 investigating?

14 A They wouldn't have to. I'm not -- that  
15 doesn't make any sense.

16 Q Not what you were investigating but what  
17 cases you were working on?

18 A Because they have lists of them.

19 Q And you had no lists of what they were  
20 working on?

21 A No.

22 Q So you are saying all the information was

1 supposed to flow from criminal investigations to PLS,  
2 just -- a one-way stream?

3 A It wasn't one-way. I believe that I  
4 testified that we gave them lists of our active  
5 matters. We had what was called an ATS, an authority  
6 to sue -- settle, chronology that told them what we  
7 were working on, what cases had been filed and which  
8 ones we were getting ready to file so they had that  
9 information.

10 Q And your complaint is that the criminal  
11 referral pertaining to First Federal, Fayetteville  
12 was never given to you?

13 A I believe when we started this line of  
14 questioning, I characterized this as this was a  
15 situation where Jean had a problem because my -- our  
16 outside counsel had made a statement that had caused,  
17 in her opinion, one of her referrals to not be  
18 pursued. If I have a problem at all, it's the sort  
19 of hypocritical nature of her behavior, by expecting  
20 me to be aware of a referral and to protect a  
21 referral that she had never even copied me on.

22 Q Okay, so you are not telling us that

1 anything Lewis did or didn't do caused a problem for  
2 you; that she had a problem which she attributes to  
3 the statement that Stockwell made?

4 A It could have been helpful to me, an \$8  
5 million trial, but I didn't have a problem with it.

6 Q Am I correct that you said here that you  
7 never had a conversation with Jean Lewis about the  
8 declination of her referral?

9 A I don't believe that I did. I don't recall  
10 ever talking with her about that.

11 Q Yet you -- it was your understanding that  
12 she was unhappy with you?

13 A Her correspondence would indicate that,  
14 yes.

15 Q What correspondence is that?

16 A The E-mail that she sent to Richard, which  
17 he in turn sent through J.T. to Julie to me.

18 Q And were there further conversations about  
19 this matter that you were party to after you received  
20 that E-mail?

21 A Yes, there were discussions with Julie,  
22 Duane, probably others. I don't remember.

1 Q Did you ever talk to anyone on the criminal  
2 investigations side about it?

3 A Probably. I have a lot of friends over  
4 there. Probably did.

5 Q I am just asking if you remember.

6 A No.

7 Q Do you have any understanding about why the  
8 Department of Justice would decide not to pursue a  
9 criminal referral, or this -- why they decided not to  
10 pursue this criminal referral because of a statement  
11 that Stockwell made?

12 A I can't answer that. I don't know.

13 Q What was your reaction when you heard that  
14 the U.S. Attorney's Office had apparently decided not  
15 to prosecute the case and they were saying that it  
16 was because of what Stockwell had said?

17 A My reaction was, I can't believe there was  
18 a criminal referral on one of these defendants and I  
19 didn't know about it.

20 Q After you had that thought, did you do any  
21 thinking about the Department of Justice's decision?

22 A No. I still tried to get over my own

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1 loss.

2 Q Was a -- strike that.

3 After you lost the case we have been  
4 talking about, was there ever a second attempt to go  
5 after any of these defendants on different claims?

6 A No.

7 Q Did you or anyone else in PLS look at the  
8 criminal referral with an eye toward thinking about  
9 filing different claims against them?

10 A The Delbert Alan criminal referral?

11 Q Yes.

12 A I read it, but not with an eye toward  
13 pursuing Delbert Alan on it.

14 Q The referral alleged some sort of criminal  
15 fraud; is that right?

16 A Yes, it alleged criminal activity of some  
17 kind.

18 Q And you didn't think that the information  
19 in the referral might provide the basis for some sort  
20 of a fraud case against Mr. Alan?

21 A We had looked at that transaction before  
22 and concluded that we could not make out a reasonable



1 case on that transaction. So, we did not include it  
2 in our civil case.

3 Q So you had already looked at the activity  
4 that was the subject of the referral?

5 A Yes.

6 Q How did that information come to your  
7 attention?

8 A Through the investigation.

9 Q Through civil investigations?

10 A Well, jointly between PLS and the civil  
11 investigators.

12 Q Was there a particular investigator or  
13 investigators who did that work?

14 A There were several out of the Tulsa office  
15 who worked on that case.

16 Q So if I understand you correctly the  
17 substance of the criminal referral had already been  
18 brought to your attention?

19 A Yes. Most of it. I mean, there were  
20 probably -- there was probably new information in  
21 there but --

22 Q But the essence of it you knew about?

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1 A We had looked at that loan transaction.

2 Q So when you heard about the criminal  
3 referral and saw it, your reaction was I didn't know  
4 there was a criminal referral, but not I didn't know  
5 he had done this?

6 A No. Because I only knew there was a  
7 criminal referral but not anything about it, and when  
8 I first heard about this incident I didn't get the  
9 criminal referral until later when I requested a copy  
10 of it.

11 Q And then you read it at some point?

12 A Yes.

13 Q And you say didn't have the reaction, I  
14 didn't know that Delbert Alan had done this?

15 A I don't understand your question.

16 Q My question is, again, is that the referral  
17 covered matters that you knew about?

18 A Covered some matters I knew about.

19 Q Well, there was a particular transaction  
20 which was at issue in the referral?

21 A Yes, I recall, yes.

22 Q And that was alleged to be a criminal

1 transaction?

2 A Yes.

3 Q And you knew about that transaction prior  
4 to the time you heard anything about the referral?

5 A Yes.

6 Q You had investigated it or rather looked at  
7 it --

8 A Yes.

9 Q -- and decided not to mount a civil claim  
10 on the basis of it?

11 A Yes, we chose other transactions which we  
12 thought were better.

13 Q I understand.

14 MR. BARTOLOMUCCI: I think that's all I  
15 have for now. I reserve the right to ask some more  
16 questions after your examination.

17 MR. SCHAUER: Take a break?

18 THE WITNESS: Yes.

19 (Recess.)

20 EXAMINATION

21 BY MR. SCHAUER:

22 Q Ms. Day, it is not my intent to go over

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1 things that have been covered before, but in  
2 following up on some of those issues I may have to  
3 overlap. I realize that you are trying eventually to  
4 catch a plane and we will try and accommodate that.

5 A Thank you.

6 Q Let's turn our attention first to the  
7 Paragould matter. As I understand it -- and please  
8 correct me if I am mischaracterizing any of your  
9 testimony -- plea negotiations went on with no one  
10 but Ms. Lewis from the RTC involved; is that correct?

11 A That's what I believe.

12 Q Is there standard practice as to how the  
13 RTC is usually involved in plea negotiations in this  
14 context?

15 A The AUSA handles criminal matters. We try  
16 to keep abreast of what is going on through our  
17 criminal investigators and our criminal coordinators  
18 to share that information with the line attorney,  
19 because oftentimes what we are doing on the civil  
20 side is closely aligned with what might be happening  
21 on the criminal side.

22 Q My understanding is we spent a lot of

1 time -- or at least you spent a lot of time  
2 testifying about the role of the victim impact  
3 statement, and my understanding is in this particular  
4 case the victim impact statement was the method that  
5 was used by the RTC to try and make sure that  
6 restitution was made; is that correct?

7 A To solidify any requests that we might have  
8 earlier made or to make an opening request.

9 Q Is that the normal methodology that you  
10 would hope RTC would make such a request?

11 A I'm sorry?

12 Q In the first instance -- it seems to me in  
13 that case, the victim impact case was the first  
14 instance in which RTC generally was interjecting in  
15 the case?

16 A That's not really true, because I had  
17 talked with the AUSAs about a cooperation provision  
18 at the plea agreement stage, which was earlier.

19 Q And they indicated to you at that point  
20 what?

21 A They weren't going to include that.

22 Q In the normal course of coordination with

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1 the AUSA, would there have been involvement by the  
2 RTC prior to the plea negotiation phase?

3 A I believe we have a memorandum of  
4 understanding with the Department of Justice that  
5 pretty much deals with cooperation between the  
6 agencies and sharing information and that sort of  
7 thing. And it's been my experience that normally, in  
8 other criminal instances at least, I'm aware of  
9 what's going on.

10 Q And your understanding in this instance  
11 what happened was that Ms. Lewis was taking the  
12 evidence that you had collected and turning that over  
13 to the AUSA?

14 A Yes, which I didn't always know about, but  
15 yes, she was.

16 Q I'm sorry. You learned subsequently that  
17 she had been turning over this evidence?

18 A She had actually been writing letters and  
19 making phone calls to the AUSA and asking them to  
20 draft certain subpoenas and get certain records so  
21 that not only would we be able to prohibit the  
22 acquiring institution from keeping the originals, but

1 that she and ultimately the AUSA would have access to  
2 them.

3 Q In your experience was that something that  
4 a criminal investigator normally would do?

5 A I have never seen it before. Not the  
6 manipulation of subpoenas, no.

7 Q Did you form any sort of opinion as to why  
8 Ms. Lewis was, in your words, manipulating subpoenas?

9 A To further her investigation.

10 Q And was that at the expense of other  
11 investigations?

12 A She didn't care, I don't think. It turned  
13 out to be. I don't think that was a concern of  
14 hers.

15 Q And in your opinion, what was her concern?

16 A Self gratification, personal success.

17 Q Your testimony is that Ms. Lewis was more  
18 concerned about her own success than the ultimate  
19 goals of the RTC?

20 A That is absolutely what I believe.

21 Q Look at the specifics here in terms of the  
22 Paragould case and the actual loss to the RTC as you

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1 understand it in terms of how these events unfolded.  
2 You were working on a bond claim that -- at the time;  
3 is that correct?

4 A Yes.

5 Q What was the value of that bond claim as  
6 far as you understood?

7 A Well, the losses were 4 or 5 million but  
8 the amount of the bond was 1,035,000 so that was our  
9 maximum recovery on the bond claim.

10 Q And ultimately what was the claim that was  
11 ultimately brought?

12 A Well, we settled it for \$550,000.

13 Q Can you explain for me why you ultimately  
14 settled it, a \$1,335,000 claim for \$550,000?

15 A \$1,035,000. The reason we settled and  
16 discounted that claim was we needed Kell's testimony  
17 on discovery, which is a provision of the bond, that  
18 a loss has to be discovered within a certain period  
19 of time, and we needed him to testify that he had  
20 concealed his lending relationship with Dr. Collier  
21 from the board, and therefore, we could claim that  
22 the board didn't discover it until within the



1 discovery period allowed in the bond.

2 When Kell refused to cooperate and when the  
3 U.S. Attorney refused to compel him to cooperate, as  
4 did the sentencing judge, it became clear to us that  
5 we weren't going to get that testimony. He was the  
6 only one that could offer it, so we settled.

7 Q Why was Ms. Lewis the only one involved in  
8 these -- or involved in the negotiations, any  
9 negotiations from the RTC side?

10 A Well, the -- I can only speculate about  
11 that. I don't really know why. I wasn't involved  
12 because nobody told me about it. I believe that the  
13 AUSAs thought that the RTC was involved through Jean  
14 Lewis. And so they never bothered to contact the  
15 lawyers.

16 Q In your experiences at RTC, had you ever  
17 seen an instance where a criminal investigator was  
18 playing this role vis-a-vis the Assistant U.S.  
19 Attorneys?

20 A No.

21 Q Did you think a criminal investigator  
22 playing this role was inappropriate?

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1 A I believed that you should share  
2 information with the other people you work with,  
3 especially with knowledge of the fact that there are  
4 other civil matters identical to the criminal matters  
5 ongoing.

6 Q So, after this experience with Ms. Lewis on  
7 the Paragould case regarding the Kell plea, you  
8 mentioned that, I believe, you spoke to Julie Yanda  
9 about this?

10 A We spoke about it on several occasions.

11 Q And do you know whether or not Ms. -- how  
12 Ms. Yanda followed up on this?

13 A I know that ultimately she discussed it  
14 with J.T. I don't know who else she discussed it  
15 with.

16 Q Before we go through this, I just want to  
17 clarify the phone call with the two United States  
18 Attorneys. My understanding is the RTC had to submit  
19 the victim impact statement as sort of a last-ditch  
20 attempt to have restitution included in the sentence;  
21 is that correct?

22 A Well, we always submit a victim impact

1 statement before sentencing. In this case we were  
2 once again trying to get restitution and  
3 cooperation.

4 Q When that didn't work, when ultimately the  
5 judge decided that he wasn't going to accept that,  
6 you mentioned there was a telephone call. Can you  
7 explain to me how that phone call evolved and how you  
8 ended up on the line unknown to you at first?

9 A That phone call happened prior to the  
10 sentencing hearing.

11 Q Prior to the sentencing hearing?

12 A Jean Lewis called Karen Carmichael and  
13 asked Karen to go next door and get me on the line,  
14 that the United States Attorneys Pat Harris and Ken  
15 Stoll were on the line. They had received our victim  
16 impact statement and they were furious is what she  
17 said. You guys need to talk to them. And so she  
18 said she was going to conference them in.

19 Q Ms. Lewis said she was going to conference  
20 them in?

21 A Yes, she said she was going to conference  
22 them in with us. And Karen and I had been talking

1 with Jean on the speakerphone so we continued  
2 talking, waiting for the call to come in -- for  
3 somebody to announce the call was coming in, and we  
4 talked maybe a minute or two, Karen and I did, and  
5 then all of a sudden Ken Stoll and Pat Harris  
6 announced themselves on the other end of the line and  
7 were unhappy with the comments that I had been  
8 making, mine and Karen's conversation, and we asked  
9 whether Jean was on the line and Jean was not there.

10 Q Did you ultimately find out what happened  
11 with the connection?

12 A She claimed that she had been unable to  
13 reconnect herself, somehow.

14 Q "She" meaning?

15 A Jean.

16 Q Ms. Lewis. So Ms. Lewis had some  
17 difficulty with the electronic switching of the  
18 phone?

19 A She was the one who was supposed to be  
20 transferring them over and in the transfer we ended  
21 up on the line and she wasn't.

22 Q Did you have reason to believe that that

1 was just an inadvertent mistake by Ms. Lewis?

2 A No, I had no reason to believe that and I  
3 suspected otherwise.

4 Q What did you suspect?

5 A I think that she didn't want to be on the  
6 call.

7 Q Why did you suspect that?

8 A Well, later on she told me, in another  
9 conversation that wasn't related directly to this --  
10 it was probably weeks later -- that I had ruined her  
11 relationship with the U.S. Attorneys in Arkansas. I  
12 think that she didn't want to deal with the heat on  
13 the other line.

14 Q And what was the context in which she told  
15 you that she had ruined her relationship with the  
16 United States Attorneys in Little Rock?

17 A Well, Kell's sentencing hearing, and  
18 Dr. Collier's sentencing hearing, which was in the  
19 early part of -- early '94, I guess, I lose track of  
20 all these dates, but after they were both sentenced,  
21 we realized that we were going to have to file a  
22 civil fraud claim in order to recover any of the \$6

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1 million that they had stolen from the institution, so  
2 we sought and received authority to file a case, and  
3 we had to have an expert affidavit to file with the  
4 suit papers and we were meeting with our expert, John  
5 Solomon in Kansas City, with the civil fraud  
6 investigator, and we went over to talk to Jean Lewis  
7 about some work product that we thought the FBI had  
8 left with her on tracing these loans. And she said  
9 she was not going to be able to help us getting any  
10 information from the AUSA because I had destroyed her  
11 relationship with them.

12 Q And when she said you had destroyed her  
13 relationship with the U.S. Attorney's office, you  
14 understood it to mean in the context of this  
15 telephone call?

16 A Bad telephone -- yes.

17 Q My understanding is that the Kell plea  
18 negotiations took place at a different time than  
19 negotiations with Mr. Collier?

20 A Yes. They were first.

21 Q The Kell plea --

22 A Was first.



1 Q Was first? The situations that you  
2 testified occurred, there was an expression of  
3 displeasure about Ms. Lewis's sole involvement in  
4 those pleas without the involvement of other RTC  
5 people. And then what happened with Mr. Collier's  
6 plea?

7 A We paid a lot of attention to what was  
8 happening to Dr. Collier. I spent a lot of time on  
9 the phone calling, asking what was going on and made  
10 sure that I wasn't relying on Jean for any  
11 information. And Dr. Collier, for a long time, was  
12 refusing to enter a plea unless he could get an  
13 assurance of no jail time and no restitution. And  
14 ultimately he withdrew those demands, and signed a  
15 plea agreement and we drafted our victim impact  
16 statement. Jean worked with us on it, more of a  
17 cooperative effort on that one.

18 Q Was Ms. Lewis involved in the plea  
19 negotiations with Mr. --

20 A Not to my knowledge, but I don't have  
21 knowledge that she wasn't. She knew about the  
22 problems so I guess she -- I don't know if "involved"

1 is the right word, but she was aware what was going  
2 on.

3 Q You testified earlier about an another  
4 conference call which followed the conference call in  
5 which you made comments, not knowing that the United  
6 States Attorneys were on the line.

7 Who was on that conference call?

8 A The two Assistant U.S. Attorneys, Richard  
9 Iorio, Jean Lewis, Julie Yanda, myself, Karen. And  
10 J.T. Thompson, Duane Curtis may have been there, but  
11 I don't remember him being there.

12 Q And you testified that you apologized  
13 because you were so directed?

14 A Yes.

15 Q And you were asked at the time whether  
16 Ms. Lewis responded to allegations that she had not  
17 represented to the United States Attorneys that the  
18 RTC wanted restitution included in the plea  
19 negotiations?

20 A I'm sorry, you lost me on that question.

21 Q There was a concern that Jean had not  
22 informed the United States Attorneys that the RTC



1 wanted restitution included?

2 A Yes.

3 Q And was that discussed in the course of  
4 that conference call?

5 A I believe that it was, but I don't remember  
6 in any detail.

7 Q I think you testified that Ms. Lewis didn't  
8 respond to those allegations?

9 A She did not.

10 Q And I think you further testified that it  
11 would have been unlike Jean to respond to those  
12 allegations?

13 A That's right.

14 Q I guess I am following up to find out why  
15 would that be unlike Jean to respond to such  
16 allegations in your experiences with Ms. Lewis?

17 A Because I don't think Jean would have  
18 admitted that she's ever made a mistake.

19 I think that when things looked bad for  
20 her, like when the AUSAs were on the phone talking to  
21 her, that I think she made a deliberate effort to get  
22 off the phone. These are just personal beliefs,

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1 based upon working with her 4-1/2 years. It is just  
2 not who she is.

3 Q You testified earlier about an existing  
4 civil fraud case in the Paragould matter. Do you  
5 know when that case was filed?

6 A Yes. It was in early 1994. I can't tell  
7 you an exact date.

8 Q Was this case filed because of the -- I'm  
9 sorry. That case was filed because of the statutory  
10 enactment extending the statute of limitations in  
11 these cases? Had the statute already run on these  
12 cases --

13 A The statute, the three-year statute  
14 would -- ran in November '94, would have run in  
15 November -- I'm sorry, '93. So, yes, it would have  
16 already run, except this was a fraud claim, so under  
17 both Arkansas law and the federal statute, we were  
18 not time barred.

19 Q We can turn our attention to the Savers  
20 matter.

21 I know you testified about the conversation  
22 you had with Mr. Dewaal. When Mr. Dewaal indicated

1 to you that Jean Lewis had said that she was the  
2 person solely responsible for the civil side, solely  
3 responsible for the civil side of the institution  
4 from the RTC, did you have any reason to believe that  
5 Mr. Dewaal had misunderstood Ms. Lewis or was  
6 providing you inaccurate information?

7 A No, I think he was truly wondering who I  
8 was. I think he was, you know, surprised that some  
9 new person had come on the scene claiming to have  
10 these responsibilities and he legitimately wanted to  
11 know who I was and why I was interfering.

12 Q And you had no reason to doubt that he had  
13 actually believed that Ms. Lewis was what she had  
14 represented herself?

15 A I think he believed her.

16 Q You mentioned other instances where trust  
17 was an issue with Ms. Lewis. And I think you were  
18 referring to the Fayetteville matter although you may  
19 have been referring to other matters. Can you  
20 recount those for me?

21 A Well, after what happened with  
22 Fayetteville -- I'm sorry, with Paragould,

1 repeatedly, I mean every corner I turned to try to  
2 make the claim, to keep the value of the claim,  
3 seemed like I was getting a lot of resistance, and  
4 absolutely no assistance from our -- from Jean  
5 Lewis.

6 And so, in -- when she told me things, she  
7 wouldn't -- she was very oblique in her answers and  
8 then when I would find out the truth, you know, it  
9 made you distrust her for not just telling me the  
10 truth. And then in the Fayetteville matter, the fact  
11 that she was mad at me because I had, you know,  
12 somehow ruined her criminal referral when she hadn't  
13 even told me about the criminal referral didn't  
14 really speak well of her integrity, in my mind.

15 It was just -- then the incident over the  
16 Foy Phillips, Ian Dewaal, what I consider to be yet  
17 another misrepresentation. So it is hard to trust  
18 someone when you have had several of those  
19 incidents. You want to really pay attention to what  
20 they are doing.

21 Q Was this concern about Jean Lewis shared by  
22 other people that you work with?

1 A Yes.

2 Q Would it be fair to say it was a general  
3 concern with everyone she came in contact with?

4 A Yes, it was fair and I don't think it was  
5 just limited to Jean, but she was certainly the  
6 subject of it more often than others.

7 Q In the First Federal matter, I think you  
8 were asked whether or not you inquired of Ms. Lewis  
9 whether or not there was actually a criminal referral  
10 and indicated that you had not --

11 A On First Federal of Fayetteville?

12 Q Fayetteville, yes.

13 A That's right, I did not.

14 Q But you also indicated that it was a -- the  
15 first trial that your division had --

16 A In the Kansas City office, professional  
17 liability.

18 Q Was it a trial that you think everyone was  
19 aware of?

20 A Everyone in the professional liability  
21 section.

22 Q Or in the criminal investigations section?

1 A I believe both those units would have been  
2 aware of it.

3 Q Would it have surprised you if someone in  
4 the criminal investigation section wasn't aware of  
5 it?

6 A It would surprise me, yes.

7 Q So you had no reason to expect that  
8 Ms. Lewis wouldn't have known that you were --

9 A No, I believe she knew the trial was going  
10 on.

11 Q Do you have an understanding now why she  
12 would not have notified you of the existence of her  
13 criminal referral in the matter?

14 A I've never asked her so I don't know.

15 Q I know you testified that you had an  
16 understanding of some of the transactions which were  
17 included in the criminal referral; is that accurate?

18 A Yes.

19 Q Were there things in the referral that you  
20 didn't have knowledge of, whether they be specific  
21 transactions or evidence that would prove scienter on  
22 the part of the --

1 A There was some information and some  
2 evidence in that referral that I didn't -- that I was  
3 not aware of when we first looked at it. I can't  
4 remember specifics on it, but it was real close to  
5 what we had looked at before. It wasn't markedly  
6 different.

7 Q You testified earlier that, in an answer  
8 about whether or not you had ever sat down one to one  
9 with Ms. Lewis to discuss some of the problems, you  
10 testified that there was a public meeting in which  
11 this was done. Would that have been a meeting on  
12 March 30, 1993 at the Marriott Hotel?

13 A It was at the Marriott. It was all of  
14 investigations and all of professional liabilities.

15 Q Can you tell me what precipitated a meeting  
16 of all of investigations and all of professional  
17 liability?

18 A J.T. called the meeting, and I don't know  
19 what his exact reasons why were, but it was  
20 represented to us that because there were so many new  
21 people, investigations was a lot larger than we had  
22 been, and we were a lot larger than we had been. We

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1 had taken on all those additional states and so we  
2 had a lot more staff. I think it was just to discuss  
3 roles and responsibilities between investigations and  
4 professional liability.

5 Q How was the forum run, were there panelists  
6 or speaker?

7 A There were moderators, J.T., Julie,  
8 Richard. And I think maybe Mike Van Valkenburg,  
9 V-a-n, V-a-l-k-e-n-b-u-r-g, raising issues,  
10 soliciting comment, that sort of thing.

11 Q Did you have an occasion to speak or to  
12 comment?

13 A Yes, I did.

14 Q What did you say?

15 A I -- I commented, not naming any names,  
16 that -- to those there and specifically to J.T., that  
17 we, the criminal coordinators -- I mean the criminal  
18 investigators needed to share and not be just an  
19 island of their own out there, that we all were a  
20 unit, that we all needed to work together, and that  
21 it was damaging to the agency for individuals within  
22 the criminal investigations department to believe



1 that they worked just for themselves, and that those  
2 individuals had a responsibility to protect the  
3 agency, and that they worked for RTC, not the  
4 Department of Justice. In substance. It lasted  
5 longer than that, but --

6 Q When you say "protect the agency" --

7 A RTC.

8 Q -- what kinds of protection are you  
9 speaking of?

10 A Well, by coordinating with the other  
11 individuals who were trying to recover money, so that  
12 we don't run into a situation like we did on  
13 Paragould where we ended up giving up part of a bond  
14 claim because of the lack of cooperation. And that  
15 we could limit the instances of that happening, and  
16 hopefully prevent them from happening.

17 Q Did your comments draw any reaction?

18 A Yes. Jean was not happy about it.

19 Q What did Ms. Lewis say or do that indicated  
20 that she was unhappy with your comments?

21 A I don't have personal knowledge of this.

22 But I saw her, very red faced, walk up to Julie and

1 J.T. afterwards and I am told by J.T. and Julie that  
2 she was discussing with them my comments. And  
3 defending her activities.

4 Q Did you have subsequent conversations with  
5 Ms. Yanda or Mr. Thomas, I believe?

6 A Yes.

7 Q About the substance of the conversations  
8 they had?

9 A Later that night, the same evening.

10 Q What did they tell you? Were these  
11 separate conversations or did the three of you sit  
12 down together?

13 A I think they were both.

14 J.T. agreed that we needed to cooperate,  
15 that nobody should be off doing their own thing.  
16 Julie told me that Jean had sort of apologized, and  
17 said that she wasn't going to create those problems  
18 in the future. It is all hearsay for me, because I  
19 wasn't there.

20 Q Did you notice a difference in the  
21 relationship generally between investigations and PLS  
22 after this meeting?

1 A It never really changed with some  
2 individuals, but it definitely changed with  
3 criminal.

4 Q Who were the specific individuals that it  
5 never really changed with?

6 A Lots of people.

7 Q Was Ms. Lewis one of those people?

8 A No. I mean she definitely was cold after  
9 that. She had nothing to do with us after that. She  
10 had little to do with us before, but less so  
11 afterwards.

12 Q I'm sorry. So your testimony is that  
13 Ms. Lewis's communication, to the extent that it  
14 existed prior to the meeting, deteriorated?

15 A Yes.

16 Q Did you continue to work on matters with  
17 Ms. Lewis after this meeting?

18 A I don't think so. I think that, you know,  
19 I may have had occasion to talk to her about  
20 something that was going on in the civil fraud case  
21 in Paragould, but I have no recollection of ever  
22 really talking about anything specific with her after

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1 that. I have spoken with Jean, but not about  
2 business.

3 Q What have you spoken with Ms. Lewis about?

4 A We both left on the same day, left RTC on  
5 the same day. Talked a little bit about RTC.

6 Q What did Ms. Lewis tell you about RTC?

7 A She said that we had always been friends  
8 and that she hoped that we could go out remaining  
9 friends. She was going to Texas.

10 Q Did Ms. Lewis have occasion to speak with  
11 you about events relating to Madison Guaranty and the  
12 criminal referrals?

13 A Again, it would be unlike Jean to be that  
14 direct. She would never say anything like that. No.

15 Q Do you have a specific recollection of what  
16 Ms. Lewis said to you other than that she had hoped  
17 that --

18 A She hoped that we could -- that we had come  
19 in as good friends, that she hoped that, you know, we  
20 would not depart on bad terms or something to that  
21 effect. I can't remember exactly.

22 Q So in the course of that conversation, you

1 didn't have occasion to or did you have occasion to  
2 recount any of the events that you've either  
3 testified here or events relating to other RTC --

4 A We have never discussed those matters.

5 MR. SCHAUER: Take a break for a few  
6 minutes.

7 (Recess.)

8 MR. SCHAUER: No further questions.

9 MR. BARTOLOMUCCI: I have a few  
10 follow-ups.

11 EXAMINATION

12 BY MR. BARTOLOMUCCI:

13 Q I am going to return your attention to  
14 the -- in connection with the Paragould matter, the  
15 first phone conversation with the Assistant U.S.  
16 Attorneys. Jean Lewis tells you and Karen Carmichael  
17 that she is referring the call, and that the U.S.  
18 Attorneys are angry; is that right?

19 A Yes.

20 Q Then you said you waited for about a  
21 minute, and had a conversation before you realized  
22 that they were on the other end?

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1 A That's correct. A minute or two.

2 Q What did you and Ms. Carmichael talk about  
3 in that minute or two?

4 A Speculating about why they were so adamant  
5 against helping us, by giving us the cooperation and  
6 the restitution. And wondering if perhaps it was --  
7 I was, not Karen, wondering if it were because Bud  
8 Storey, Dan Kell's attorney, was a former AUSA, and  
9 if maybe they had loyalty to him as a friend.  
10 S-t-o-r-e-y.

11 Q So you already knew they weren't going to  
12 help you, they weren't going to cooperate with RTC in  
13 seeking restitution and cooperation?

14 A Well, we believed that they wouldn't.  
15 That's why we didn't copy them on the victim impact  
16 statement.

17 Q So that had already been sent by the time  
18 of this conversation?

19 A Yes.

20 Q And so for a minute or two, you were  
21 speculating about why they were -- weren't willing to  
22 back you on those things?



- 1 A Yes.
- 2 Q And you raised the speculation about this  
3 connection to Bud Storey?
- 4 A Yes.
- 5 Q What did Karen Carmichael say about that?
- 6 A I don't remember. I'm sorry.
- 7 Q Was it this comment about Bud Storey and  
8 the relationship that he may have had with these  
9 AUSAs which precipitated them speaking?
- 10 A You will have to ask them what precipitated  
11 them to speak. I don't know.
- 12 Q Well, did they -- did their first words  
13 come soon thereafter?
- 14 A Well, we talked about it for a while before  
15 they spoke up. So I don't know what in that  
16 conversation precipitated them to speak.
- 17 Q Okay. That's a pretty serious allegation,  
18 isn't it, that speculation you were making?
- 19 A Well, made in privacy, I don't think so.  
20 Speculation among a co-worker, I think that's the  
21 sort of thing that happens in everyday life. I  
22 wasn't accusing them publicly of anything.

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- 1 Q If someone unbeknownst to you had  
2 speculated that you had gone -- in a civil case you  
3 had tried to take it easy on a particular defendant  
4 because of some relationship you had with that  
5 defendant's attorney, would that bother you?
- 6 A If it were true, it would bother me.
- 7 Q If the allegation were true?
- 8 A If the allegation were true, I think that's  
9 very unethical and I should be bothered by it.
- 10 Q You are saying you wouldn't be bothered if  
11 that statement were made and it wasn't true?
- 12 A If it wasn't true I would defend myself,  
13 set the record straight.
- 14 Q But you wouldn't be bothered by it?
- 15 A Probably.
- 16 Q Would you be upset?
- 17 A Probably.
- 18 Q And that's regardless of whether it was  
19 said to your face or to a third party out of your  
20 presence?
- 21 A This is all just speculation. I guess.
- 22 Q I am asking how you would feel. I am not



1 asking you to speculate about anything. How would  
2 you feel if out of your presence, someone said to  
3 another person, I think Ms. Day took it easy on this  
4 defendant because she used to work with that guy's  
5 attorney?

6 A Like I said, if it were true, I would be  
7 bothered.

8 Q You would be bothered that you had --

9 A That I had done something unethical and  
10 that somebody else knew about it.

11 Q And if it were not true?

12 A I would be less bothered.

13 Q It wouldn't bother you?

14 A I would be less bothered, but these  
15 gentlemen were mad when they made the call, according  
16 to what Jean told us.

17 Q And you don't think they were at all  
18 concerned about this comment about Bud Storey?

19 A Absolutely they were concerned about that.

20 Q And you eventually apologized for making  
21 the remarks?

22 A Yes, I did.

1 Q But someone ordered you to do that?

2 A Someone suggested that -- somebody who was  
3 my supervisor suggested it would be the appropriate  
4 thing to do.

5 Q Sounds a lot like an order.

6 A Use your own word.

7 Q Are you saying you wouldn't have apologized  
8 but for this suggestion?

9 A I don't know. I never thought about it.

10 Q It hadn't occurred to you to do that before  
11 the suggestion?

12 A I probably would have said something to try  
13 to soften it, yes.

14 Q Now turning your attention to the second  
15 conference call with the Assistant United States  
16 Attorneys.

17 A Am I correct that your testimony is that  
18 there was no discussion about Ms. Lewis having said  
19 to the Assistant U.S. Attorneys the RTC doesn't want  
20 the cooperation or restitution provisions?

21 A I'm sorry. I didn't understand the  
22 question. You've got too many facts in there.

1 Q You told me that it was represented to you  
2 that Lewis had told the AUSAs that RTC didn't want  
3 restitution or cooperation provisions?

4 A I don't believe that's my testimony. I  
5 don't know that she affirmatively said to them, we  
6 don't want these things. What I believe they implied  
7 to me was that she represented that we wouldn't be  
8 demanding that, never asked for it, never raised it,  
9 so it could have been by omission, rather than  
10 commission.

11 Q Somehow you attribute their failure to  
12 support their ultimate request on those matters to  
13 Jean's having said something like that?

14 A Or failing to say something like that.

15 Q For failing to request those things?

16 A Yes, I do.

17 Q So this whole -- this issue about Jean not  
18 saying we would like to have cooperation and  
19 restitution provisions wasn't discussed at the second  
20 conference call with the AUSAs?

21 A I think it was talked about somewhat, yes.  
22 I think I testified to that earlier.

1 Q You don't remember any specifics of it?

2 A No.

3 Q Even though as far as you were concerned  
4 this was the cause of the problem?

5 A The problem, the immediate problem in that  
6 conversation was mending fences. And that was the  
7 purpose of that call.

8 Q I take it your comment about Bud Storey  
9 didn't help the fence much?

10 A Is there a question?

11 Q Yes, that's a question.

12 A Well, you will have to phrase it in some  
13 other fashion that I can answer it.

14 Q As part of the fence that needed to be  
15 mended in disrepair because of your comment about Bud  
16 Storey?

17 A Well, it was the result of our  
18 conversation, what they heard in that conversation  
19 that upset them in particular, I don't know. But  
20 they were clearly upset about the conversation they  
21 overheard.

22 Q With respect to the Savers Federal matter,

1 would you try to tell me as precisely as you can what  
2 Mr. Dewaal said that Lewis said to him in terms of  
3 her role with respect to Savers Federal?

4 A As precise as I can get is the substance of  
5 his comment, that she was responsible for all civil  
6 matters arising out of, for RTC, arising out of  
7 Savers Federal. I can't be any more precise than  
8 that, I'm sorry.

9 Q Is it your understanding that she said she  
10 was solely responsible or just responsible?

11 A You are getting too specific now. I can't  
12 say that that word was said, but it sounded something  
13 like that. It might have, you know, not been exactly  
14 those words.

15 Q Do you know if Mr. Dewaal talked to Jean  
16 Lewis subsequent to your conversation with him?

17 A I don't know that.

18 Q Turning to the Fayetteville matter, now I  
19 know you testified that you didn't have the criminal  
20 referral about Fayetteville, and that you didn't even  
21 know about it. But am I correct that the criminal  
22 coordinator should have been informed of that

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1 criminal referral?

2 A Should have.

3 Q So whoever that was should have known about  
4 it?

5 A Yes.

6 Q During the time of that -- the Fayetteville  
7 trial was litigated, was PLS and criminal  
8 investigations, were they still in separate offices?

9 A We've always been in separate offices.

10 Q To this day, as far as you know?

11 A Yes.

12 Q Or to the day you left?

13 A Yes.

14 Q In your remarks at the meeting held at the  
15 Marriott, did you ever refer to Ms. Lewis  
16 specifically?

17 A I don't think I did, no.

18 I also don't think there was any doubt in  
19 anybody's mind who I was talking about.

20 Q Back on to Paragould. Will you explain for  
21 me why the decision was made to not tell the  
22 Department of Justice that the provisions about

1 cooperation and restitution were going to go into the  
2 victim impact statement?

3 A As I understand it, and I was not a party  
4 to any of this, there was a conversation between I  
5 think Tracey Whittaker, Gregg Golden, and Karen  
6 Carmichael.

7 Q Who are Whittaker and Golden?

8 A They are Washington attorneys whose  
9 specific titles I don't know, but they deal with  
10 criminal matters.

11 Q They are RTC attorneys?

12 A Yes.

13 Q So there was a conversation with the two of  
14 them, and Karen Carmichael?

15 A Karen, about whether to copy or to send a  
16 draft of the criminal -- of the victim impact  
17 statement first to the AUSA. And it is my  
18 understanding that the three of them decided that  
19 since the AUSAs' interests did not appear to be  
20 aligned with our interests, that they could not go  
21 with the normal standard policy of sending it to the  
22 AUSA first.

1 Q So these three already knew at that point  
2 that the U.S. Attorney's Office was not going to be  
3 supportive of the cooperation and restitution  
4 requests?

5 A I think they suspected it.

6 Q And that suspicion was based on what?

7 A Based upon difficulty we had with them  
8 earlier, with the plea agreements.

9 Q Was that the difficulty that you referenced  
10 when they were saying that's not part -- that wasn't  
11 part of the deal?

12 A Yes.

13 Q That was in pretty clear terms, then,  
14 wasn't it, that they weren't going to be backing  
15 those provisions?

16 A But that was on the cooperation issue only,  
17 not restitution.

18 Q So then the decision was made not to give  
19 them a draft copy of the -- not to give the U.S.  
20 Attorney's Office draft copy of the victim impact  
21 statement?

22 A That's what I have been told.



1 Q Just to send it on directly to the judge?

2 A That's what I have been told.

3 Q So was it your understanding that they  
4 thought they could get those orders without the U.S.  
5 Attorney's Office's support?

6 A I can only anticipate that they thought  
7 they might or they wouldn't have asked for it.

8 Q Did you have any input into that decision  
9 to send the victim impact statement directly to the  
10 judge without clearing it with the U.S. Attorney's  
11 Office first?

12 A No. I didn't.

13 Q Do you know if Jean Lewis had any hand in  
14 the drafting of the victim impact statement?

15 A No, I don't.

16 Q Do you know if she saw a copy of it before  
17 it was sent out?

18 A I don't know.

19 Q You also don't know whether she had the  
20 opportunity to edit it?

21 A I was not there when they were drafting it.

22 Q Where were you?

1 A I was out of town on business, and I don't  
2 remember where.

3 Q To your knowledge, was Jean Lewis ever  
4 formally disciplined for anything that we've talked  
5 about this afternoon?

6 A Not to my knowledge.

7 Q Do you know whether she was even formally  
8 reprimanded with respect to anything we've talked  
9 about today?

10 A I don't know anything about that.

11 Q Have you ever been questioned or  
12 interviewed in connection with any disciplinary  
13 action taken against Ms. Lewis?

14 A No.

15 Q While you were at the RTC, did you have any  
16 involvement on the Madison Guaranty case?

17 A No.

18 Q None whatsoever?

19 A Not other than this.

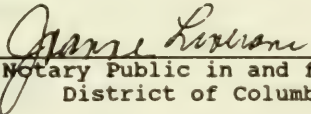
20 MR. BARTOLOMUCCI: Well, I think this is  
21 ended. I don't have any more questions.

22 MR. SCHAUER: I think we are done.

1 (Whereupon, at 6:09 p.m., the deposition  
2 was concluded.)  
3

4 -----  
5 NEYSA L. DAY  
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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires

JULY 31, 2000





**DEPOSITION OF RIC DOERY  
IN RE: S. RES. 120**

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**THURSDAY, NOVEMBER 2, 1995**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER  
DEVELOPMENT CORPORATION AND RELATED MATTERS,  
*Washington, DC.*

Deposition of RIC DOERY, called for examination pursuant to notice of deposition, at 2:40 p.m. in Room 124 of the Dirksen Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.  
Majority Associate Special Counsel  
JAMES S. PORTNOY, Esq.  
Minority Associate Special Counsel  
U.S. Senate  
Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Building  
Washington, DC 20510  
On behalf of the Committee.

JOHN C. McDOUGAL, Esq.  
Special Litigation Assistant  
Internal Revenue Service  
Suite 100  
2727 Enterprise Parkway  
Richmond, Virginia 22209

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## 1 PROCEEDINGS

2 Whereupon

3 RIC DOERY

4 was called as a witness and, having been first duly  
5 sworn, was examined and testified as follows:

## 6 EXAMINATION

7 BY MR. O'CALLAGHAN:

8 Q Good afternoon, sir. My name is Michael  
9 O'Callaghan, Associate Special Counsel with the  
10 Majority on the Special Committee.11 This deposition is conducted pursuant to  
12 Senate Resolution 120. The resolution establishes a  
13 Special Committee administered by the Banking  
14 Committee to conduct an investigation involving  
15 Whitewater Development Corporation, Madison Guarantee  
16 Savings and Loan Association, Capital Management  
17 Services, Incorporated, the Arkansas Development  
18 Finance Authority, and other related matters.19 Section 1B(2)(e) of the Senate Resolution  
20 120 authorizes the investigation in public hearings,  
21 and whether the report issued by the Office of  
22 Government Ethics on July 31, 1994 and related

4

1 transcripts of definition testimony, one, were  
2 improperly released to White House officials or  
3 others prior to their testimony before the Committee  
4 on Banking, Housing, and Urban Affairs pursuant to  
5 Senate Resolution 229 or 2, were used to communicate  
6 to White House officials or to others confidential  
7 RTC information relating to matters, the Madison  
8 Guarantee Savings and Loan Association or the White  
9 Water Development Corporation.10 This will be in part the purpose of  
11 today's deposition, that also matters relating to the  
12 inquiry being conducted by the committee.13 This deposition is in advance of public  
14 hearings which are likely to occur next week. The  
15 first week of November, there is a possibility you  
16 will be asked to testify at the hearing.17 Today we're going to ask you a series of  
18 questions. You've already been sworn in, so you're  
19 testifying under oath. If you don't understand a  
20 question, let me or Mr. Portnoy know and we'll  
21 rephrase the question. If you need a break, also let  
22 us know.

1 The stenographer is preparing a record of  
2 questions and answers. The deposition will be  
3 treated as committee confidential until the  
4 commencement of the hearings. We also request that  
5 you keep the contents of the deposition confidential.

6 MR. McDOUGAL: Just for the record, I'd  
7 like to observe -- first of all, I'm John C.  
8 McDougal, Special Litigation Assistant with the  
9 Internal Revenue Service District Counsel's Office in  
10 Richmond, Virginia. I'm here representing Mr. Doery  
11 in his official capacity.

12 It is the position of the Treasury  
13 Department that there is no reasonable way to keep  
14 witnesses from talking to one another or examining  
15 each other's documents or whatever. And we decline  
16 to be bound by that obligation. We don't have any  
17 expectation that Mr. Doery is going to be talking  
18 with anybody in particular, but we don't think he  
19 should be bound by that.

20 BY MR. O'CALLAGHAN:

21 Q Prior to the hearings, you received a  
22 letter from the committee telling you that you may

1 come to the Senate to review the transcript of this  
2 deposition and make note of any corrections of the  
3 transcription on an errata sheet.

4 If you are called to testify in public  
5 hearing, you will be permitted to have a copy of your  
6 deposition transcript four days in advance of your  
7 testimony.

8 You may be represented by counsel.  
9 Counsel just identified himself for the record.  
10 Counsel objections to the form of questions will be  
11 noted for the record. Counsel may object on grounds  
12 of privilege or relevance, and the committee chairman  
13 may rule, on objections, if the witness refuses to  
14 answer a question.

15 Could you please state and spell your full  
16 name for the record?

17 A I go by Ric, R-i-c, Doery, D-o-e-r-y.

18 Q Are you known by any other name?

19 A Richard is my full name.

20 Q Could you give your full formal name?

21 A Richard.

22



1  
2 Q What's your present business address?  
3 A Main Treasury Building. It's at 1500  
4 Pennsylvania Avenue, Northwest, DC, 20220. I'm in  
5 Room 2222.  
6 Q What's your present position?  
7 A Deputy Counsel to the Inspector General.  
8 Q How long have you been employed there?  
9 A Two and three-quarters years, I believe.  
10 Q Have you held that same position for all  
11 the two and three-quarter years?  
12 A Yes.  
13 Q Who do you report to there?  
14 A Lori Vassar, L-o-r-i V-a-s-s-a-r.  
15 Q How long have you reported to Ms. Vassar?  
16 A Two months.  
17 Q Who did you report to before that?  
18 A Well, there was a period of time when I  
19 was running the office. So I guess I reported to  
20 Valerie Lau directly. Valerie Lau is the Inspector  
21 General -- and also to Neal Wolin, the Deputy General  
22 Counsel.

1 Q During what time period was that?  
2 A March -- no, wait a second. April through  
3 August.  
4 Q Of this year?  
5 A That's right.  
6 Q How about before that?  
7 A Before that, Francine Kerner.  
8 Q For what time period?  
9 A That would be January 1993 through March  
10 of '95.  
11 Q Since you've been at Treasury, has there  
12 been anyone that you've directly supervised?  
13 A Yes.  
14 Q Could you give me the names of people  
15 you've supervised?  
16 A Sharon Separ, S-e-p-a-r, Tina Bak-Brevik,  
17 B-a-k-B-r-e-v-i-k, and Kimberly Beverly.  
18 Q Are you aware of the committee's document  
19 request to the Office of Inspector General and the  
20 Department of Treasury?  
21 A Yes.  
22 Q Did you search for all responsive

1 documents, notes, reports, and memoranda in  
2 connection with the request?

3 A Yes.

4 Q Have all responsive documents been  
5 produced?

6 A No. We're currently in the process of  
7 producing what is left.

8 Q What currently is remaining?

9 A What is remaining is documents from --  
10 that are located in the files maintained by the  
11 Office of Investigations. I'll refer to them as OI,  
12 if it's all the same to you. And they include  
13 documents that were given to the Inspector General's  
14 Office by the Office of General Counsel, OGC,  
15 including documents that they had either compiled or  
16 gotten from other people.

17 And they also include documents, I  
18 believe, that we got from the White House, and there  
19 are also documents that are going to be produced to  
20 you, I believe, today, that are OI documents,  
21 Inspector General OI documents.

22 Q Do you currently have any responsibility

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1 in connection with the IG's production of documents  
2 to the committee?

3 A The production of documents is now being  
4 handled by Lori Vassar. When Lori has a question  
5 about what documents, or what, she asks me those  
6 questions and I tell her. But she is doing all the  
7 production work.

8 Q Have you previously had any  
9 responsibilities other than you just stated?

10 A Yes. I have been primarily responsible  
11 for producing documents before, I guess last week.

12 Q Was that beginning when you first received  
13 the request from the committee?

14 A No. I first received the request from the  
15 committee, I believe, September 12th.

16 Q My question is, when the Inspector  
17 General's Office first received the request for  
18 documents from the committee, were you in charge of  
19 the document production from the beginning?

20 A Are you talking about the September 12th  
21 one?

22 Q Yes, I am.

1 A Yes, I was.

2 Q Did anyone else participate in the  
3 production with you?

4 A Only on clerical matters. I was primarily  
5 responsible. I handled making sure that all  
6 documents that were responsive were available to us.  
7 I produced physically the documents to Joe Kalinski.  
8 I probably involved my secretary. And I know there  
9 was one other staff person in the ICC Building, where  
10 we have our OI located, who had begun to help  
11 stamping documents.

12 Q What's the address of the ICC Building?

13 A I think it's at 12th and Constitution, I'm  
14 not sure if it's 1201.

15 Q Could you generally describe the searches  
16 that were conducted for the documents?

17 A The search for this subpoena you mean, or  
18 for this document request?

19 Q Correct. Actually, for any document  
20 requests in connection with the request made by the  
21 committee.

22 A Right. We had -- prior to the committee's

---

12

1 requests to us, all the documents had been brought  
2 together in three locations. One of the locations  
3 was our office, the Office of Counsel to the  
4 Inspector General. One location was wherever Bob  
5 Ceska happened to be, because he changed offices.  
6 And the third location was at OI.

7 Q Could you describe how the searches were  
8 conducted, what means you used? What files were  
9 searched?

10 A Well, it was very easy to search our files  
11 because we kept them all in a locked safe, and they  
12 were in basically two different drawers. I might  
13 have had a small file of correspondence between  
14 myself and the independent counsel in my office, so  
15 that was easy.

16 Bob Ceska had a very small file of  
17 documents that was maybe three inches high. So he  
18 didn't have very many. And all of the documents at  
19 OI were in three or four cabinets-full in a locked  
20 file cabinet.

21 And I guess I neglected to mention the  
22 transcripts of deponents for the interviews that we

1 took were also located in the Counsel's office, the  
2 Counsel to the Inspector General.

3 Q I assume you made duplicates of the copies  
4 you had? Did you make duplicates of the copies,  
5 duplicates of the documents you had, and produce  
6 duplicates to the committee?

7 A Yeah, I guess. In producing documents to  
8 the committee, we made copies, stamped them, and  
9 produced the copies to the committee. The committee  
10 did not ask for original documents.

11 Q I'm going to be asking some very nuts-and-  
12 bolts questions about the process.

13 A Sure.

14 Q With regard to duplicates you made, what  
15 different locations were the duplicates made?

16 A The documents that were in OC, the Office  
17 of Counsel, were made -- is the question, how many  
18 copies were made?

19 Q No. Physically, were they all made -- all  
20 the copies that were in OC, were they made in OC's  
21 office?

22 A Yes. They were made in OC's office. The

1 documents for OI were made either in their office or,  
2 there's a copy machine down the hall a little ways.  
3 I'm almost positive, for the Senate production,  
4 though, they were all made right in the Office of  
5 Investigations.

6 Q How about the documents in Mr. Ceska's  
7 office?

8 A There was a different copy machine. I  
9 think it was in the Office of Personnel, across the  
10 hall from Bob's office.

11 Q Were documents ever taken, like out of  
12 OI's office, and then brought over to another office  
13 for copying?

14 A Not for the Senate production.

15 Q For any production?

16 A For a different production, yes.

17 Let me just think about that.

18 (Pause.)

19 Yes, I have to amend what I said before.

20 There was a time when Jim Cottos gave me documents  
21 that were located in his office that were apart from  
22 the main batch of documents.



1 Q What were those documents?  
2 A Those documents were copies, so Jim told  
3 me, of documents that were contained in the OI files.  
4 It was a very small number of documents.  
5 Q How many would you say?  
6 A Maybe 20 pages or so.  
7 Q Did you review the documents?  
8 A Not there. Jim made copies for me in his  
9 office.  
10 Q Where did you bring them?  
11 A I brought them back to my office.  
12 Q Did you then make copies in your office?  
13 A Yes.  
14 Q Then you brought them back?  
15 A No. I made copies of what he had, which  
16 were copies. What I brought back to my office I made  
17 copies of to produce to you.  
18 Q And you kept the originals?  
19 A I kept my copies of the copies.  
20 Q The copies that he gave you, you kept?  
21 A That's right. Everything that I produced  
22 to the Senate, I kept a copy of.

1 Q Do you continue to maintain those copies?  
2 A Yes.  
3 Q Have any copies that are responsive to  
4 requests made by the committee been destroyed, lost,  
5 or otherwise disposed of?  
6 A Extra copies have been.  
7 Q Can you explain how they've been  
8 destroyed, lost, or disposed of?  
9 A Well, by the time I got the Senate's  
10 request, I had been through these documents before,  
11 producing them to other parties.  
12 Q Just for some background, could you  
13 explain the process that you were involved in in  
14 producing similar documents to other parties?  
15 A All right. I understand, I mean, for the  
16 record. My hesitation about talking about this is  
17 because it concerns production of documents to the  
18 Independent Counsel's Office. I'm just a little  
19 concerned about that.  
20 Q You can discuss what you did with regard  
21 to the document production. I'm not going to inquire  
22 as to the substance of the Independent Counsel's

1 investigation.

2 A Okay.

3 I had first produced documents to the  
4 Independent Counsel's Office, and then produced  
5 documents to the House of Representatives in their  
6 inquiry.

7 Q When did you conduct those productions?

8 A Well, I'm going to have trouble figuring  
9 out when the Independent Counsel one was. That was  
10 when Francine Kerner was still my boss. So it would  
11 have been before the end of March '95.

12 The House production I know took place  
13 during June of '95.

14 Q June this last summer, this year?

15 A June of '95, yes.

16 Q Was the Independent Counsel production the  
17 same year, or was it the year before?

18 A It was probably -- it might have been  
19 around the time of the year change. I'm afraid I  
20 can't just --

21 Q You don't recall?

22 A I don't recall.

1 Q You just said that copies of documents had  
2 been destroyed?

3 A That's right, extra copies.

4 Q Could you describe what was destroyed?

5 A Yes. Because this was the third time that  
6 I was producing documents to one party or another, I  
7 was reasonably familiar with the documents. And in  
8 the process of going through them, I realized that  
9 there was many, many copies of some of the same  
10 documents.

11 So, after I went through the documents far  
12 enough and realized that, you know, hey, this was a  
13 copy of something I'd already seen 10 times already,  
14 I would pull that extra copy out and put it in a pile  
15 to be destroyed.

16 Q Did you maintain one set of copies that  
17 you used to make copies for other productions?

18 A Yes. Everything I have produced to the  
19 Senate, I have a copy of. And I never destroyed  
20 anything that was an original document that I could  
21 discern was an original. Anything, for example, that  
22 was on a piece of paper that had letterhead on it,

1 that was not white copy paper, or anything that had a  
2 signature that was in blue ink, or that you could  
3 tell was the original document. I never destroyed  
4 anything like that.

5 Q With regard to electronic mail, would you  
6 be able to determine if it was an original printout  
7 of an e-mail or not?

8 A That was much more difficult.

9 Q Any other documents which you might have  
10 trouble discerning whether it was an original or not?

11 A Well, if we got a copy of the document of  
12 communication with the Hill somehow, or someone else,  
13 unless it was the original, very often it's slightly  
14 tan-colored paper, unless it was something like that,  
15 I did not spend the time to inspect every document to  
16 determine whether it was original or not, that kind  
17 of original.

18 Q Were any original documents produced to  
19 the committee?

20 A No.

21 Q If you could just walk me through when  
22 destruction of these duplicates occurred.

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20

1 A For the Senate production?

2 Q Correct.

3 A Right.

4 MR. McDOUGAL: Excuse me. I don't want to  
5 interfere, but it might make it easier for you to  
6 understand if we would start at the beginning with  
7 the first production to the Independent Counsel, and  
8 destruction of the records then, and track it  
9 through, just to get the sequence in your mind  
10 better, because this situation was different in terms  
11 of his knowledge at the Senate production than it was  
12 at the beginning.

13 Just a suggestion.

14 MR. O'CALLAGHAN: I'm happy to do that.

15 MR. McDOUGAL: It helped me understand.

16 THE WITNESS: I'll give you a brief  
17 overview of it, just for your information and  
18 background.

19 When I first started looking at documents  
20 to produce to the Independent Counsel, I did not know  
21 anything about Whitewater. I was not involved. I  
22 was purposely kept out of the loop so I could handle

1 anything like this that would come up afterwards. So  
2 I was not familiar with the documents.

3 There were plenty of copies. I could tell  
4 that pretty soon. Most of the documents were in my  
5 office, the Office of Counsel, and they were created  
6 or maintained by Francine Kerner.

7 The main goal during that time was to try  
8 and pick out everything that was responsive to what  
9 the Independent Counsel's Office wanted, and to put  
10 in a different pile things that were not going to be  
11 produced.

12 It took me a very long time to get used to  
13 the ideas. So I didn't really destroy too much  
14 during that period of time.

15 BY MR. O'CALLAGHAN:

16 Q Were you the person who made the decision  
17 whether a document was relevant to the request made  
18 by Independent Counsel?

19 A Yes, that's right. That's really all I  
20 want to say, about the Independent Counsel.

21 When the House came along, we told them  
22 that there was a lot of -- a large number of

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22

1 documents, and we asked them if they would send  
2 people over to our office to tag the documents that  
3 they wished to have copied, and then we would produce  
4 only those, and they agreed to that.

5 So we let the House people come over, and  
6 they looked at all of the documents they were talking  
7 about that had been collected. And they only picked  
8 a certain number of documents, and that is why, you  
9 know, I wouldn't have destroyed any documents during  
10 that period of time.

11 It was very easy. They made our lives  
12 easy by coming in and inspecting the documents  
13 themselves.

14 Q Just to make sure I'm clear, had you  
15 destroyed any documents or originals or duplicates  
16 while you were making the Independent Counsel  
17 production?

18 A I never destroyed an original of any  
19 document at any time. And extra copies may well  
20 have -- my guess is that I did destroy extra copies  
21 of documents during the Independent Counsel review  
22 when it became really apparent to me that there were



1 many, many extra copies.

2 Q Was there anyone assisting you with the  
3 document production when you were doing it for the  
4 Independent Counsel's request?

5 A Yes. We had the IRS come by with a team  
6 of investigators to help us identify the documents in  
7 different people's offices. Francine Kerner helped  
8 me to identify what particular documents were, to  
9 give context to them.

10 Q Did she help in determining what was  
11 relevant and what wasn't, also?

12 A Yes, she did.

13 Q Anyone else from the IG's office?

14 A No.

15 Q Anyone from Treasury main?

16 A No.

17 Q General Counsel's office?

18 A No. The General Counsel had their own  
19 request they were working on with the same IRS  
20 people. But we responded separately.

21 Q You didn't coordinate your efforts for  
22 that?

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24

1 A No.

2 Q Please continue.

3 A So no documents destroyed during the House  
4 production. And then by the time the Senate came  
5 along --

6 Q I want to ask you one question before you  
7 move on. While you were making your production to  
8 the House, people came by and tagged documents; is  
9 that correct?

10 A That's correct.

11 Q Was there any further inspection of the  
12 documents for relevance made by people in the IG's  
13 office?

14 A We did not inspect for relevance there,  
15 per se.

16 Let me say it like this. Their request  
17 was pretty broad. So they didn't pick any documents  
18 that we felt were irrelevant, except maybe two that  
19 were just in the wrong file, and were clearly not  
20 relevant.

21 But we also did not let them take -- and  
22 in fact I don't know whether they even asked to take

1 anything that related to a communication between our  
2 office and the Office of the Independent Counsel. I  
3 tried to remove such documents before they looked at  
4 them.

5 Q What were the two documents that were  
6 clearly irrelevant? Do you recall?

7 A I don't remember. All I remember is that  
8 they were misfiled. They did not belong in that  
9 Whitewater file.

10 Q Who else worked on the production with you  
11 for the House?

12 A I'm the only one, I think.

13 Q When you said the work, you're doing the  
14 physical work and pulling these copies?

15 A No, I did not do the physical copying.  
16 The people over at OI did that. I don't even know  
17 who did that, someone from OI. And they sent copies  
18 over to me, and I processed them, claimed privileges,  
19 did the Bates stamping, produced --

20 Q So we've spoken to the Independent Counsel  
21 production and the House production, right?

22 A Right.

1 Q With regard to the production to the  
2 committee, the Senate committee, could you identify,  
3 starting from the beginning of the production when  
4 you first received the request from us, incidents  
5 where documents were destroyed, for whatever reason?

6 A Okay. The Senate made a very broad  
7 request, one which basically covered our entire  
8 investigation. That is the way I looked at the  
9 request. So I contacted Bob Giuffra to see if he  
10 couldn't narrow this request to make everybody's life  
11 easier.

12 Bob agreed that a narrow request would be  
13 acceptable to him. But the request that he agreed to  
14 was, documents that had been produced to other  
15 parties -- what that was understood to mean was, to  
16 the House and to the Independent Counsel's Office.

17 So what I did for this production was took  
18 the copies --

19 Q I'm sorry. Was that a modification of an  
20 earlier request?

21 A The earlier request was the September 12th  
22 written request. This was a verbal conversation,

1 telephone conversation with Bob Giuffra.

2 Q So this verbal conversation to clarify  
3 and/or modify an earlier request?

4 A That's right. Among other things that we  
5 discussed -- actually, one very important thing that  
6 we discussed was that we were not going to produce  
7 any transcript of the witnesses that we took to the  
8 committee because they had already been produced,  
9 both redacted and unredacted copies. So that cut  
10 down on our production load dramatically.

11 Q Just for clarity, the transcripts you are  
12 referring to are transcripts of depositions that were  
13 conducted in July of 1994?

14 A That's right.

15 Q In connection with the investigation  
16 conducted by the Treasury Inspector General's office,  
17 the RTC Inspector General's Office for the Office of  
18 Government Ethics; is that correct?

19 A That is correct.

20 Q On the subject of Treasury-White House  
21 contacts?

22 A That's correct. Those are the ones.

1 What I did to produce the documents for  
2 Bob Giuffra at this point was to make copies of the  
3 file that I kept that was the Independent Counsel  
4 production, and the file that was the House of  
5 Representatives production, took those copies and  
6 arranged them in order of correspondence with the  
7 Hill, e-mail, internal communications, which I'd  
8 never done before because the documents were always  
9 not stored in a more coherent fashion.

10 Q A little more haphazard earlier?

11 A It was totally haphazard. The documents  
12 were in whatever order -- no order at all. So in  
13 order to comply with the Independent Counsel's wish  
14 that we not identify documents that were given to  
15 them, I blackened out the Bates numbers for the House  
16 production and for the Independent Counsel  
17 production, collated the documents, and moved all  
18 like documents together, and then put them in  
19 chronological order.

20 And in that process, I realized I was able  
21 to eliminate many extra duplicate copies. And those  
22 I shredded.

1 Q Was this a daily occurrence or weekly?  
2 Did you do it at the end? Just give me an idea how  
3 often.

4 A This happened on one day. Bob's narrowing  
5 of his request made our job really easy. This  
6 happened on one day.

7 Q Do you recall when that happened?

8 A It happened pretty shortly after we  
9 received the letter request. That probably would  
10 have been the second week in September, the second or  
11 third week.

12 Q Where was the shredding done?

13 A In our office the Office of Counsel.

14 Q The Office of Counsel at IG?

15 A That's right.

16 Q Did you have anyone assist you physically  
17 or during the documents?

18 A No.

19 Q Was it just you in there?

20 A Just me.

21 Q Did anyone assist you with the shredding?

22 A I don't think so. It's possible that I

1 would have asked my secretary to do it. But since  
2 there wasn't that much, I doubt it.

3 Q What volume of material or pages do you  
4 think were shredded in the second or third week of  
5 September?

6 A You know, the House and the Independent  
7 Counsel request did have quite a bit of overlap. And  
8 each was about three inches, I would say, three to  
9 four inches. So maybe half of that from each. So I  
10 would say maybe a good three inches of documents.

11 Q After the second or third week of  
12 September, were you still involved in producing  
13 documents to the committee?

14 A Well, I stopped producing after I produced  
15 those documents because I thought that's all the  
16 committee wanted.

17 Then Bob Giuffra changed his mind, and  
18 decided to have all of our documents, and said that  
19 he wanted to start out with documents of individual  
20 witnesses, the deponents. That would Bob Ceska,  
21 Francine Kerner, and Jim Cottos had in their  
22 possession.



1 Q Was it your understanding that he changed  
2 his mind, or that there was a misunderstanding?

3 A There was no misunderstanding. He changed  
4 his mind, clearly.

5 Q So he wanted files -- I'm sorry.

6 A He wanted to start out with all the  
7 documents that were in the possession of those three  
8 deponents. He wanted everything.

9 Actually, I misspoke slightly before. It  
10 wasn't only the documents that had already been  
11 produced to the House and the Independent Counsel  
12 that Bob wanted. He also did want any communications  
13 between the Inspector General's Office and the House,  
14 Senate, and RTC, and the White House for a period of,  
15 I believe it was July 1st or June 1st through August  
16 5th.

17 So we went through, and I got extra copies  
18 of telephone records that indicated that there was an  
19 attempt to make a call. And probably I produced some  
20 more -- what do you call those -- appointment books,  
21 pages from appointment books.

22 MR. PORTNOY: I'm sorry. I missed that.

1 Could you restate what the agencies were that you  
2 wanted, the communications involved?

3 THE WITNESS: He didn't ask that question.  
4 I was offering that information.

5 In addition to the documents that were  
6 already produced already to the committee, he wanted  
7 to have, for the period I think June 1st through  
8 August 5th all records of communications whether or  
9 not they related to Whitewater, was my understanding,  
10 between our office -- actually it couldn't have been  
11 whether or not it related to Whitewater.

12 But between our office and the White  
13 House, and our office and the House of  
14 Representatives, the Senate, and I believe OGE.

15 BY MR. O'CALLAGHAN:

16 Q And the RTC also?

17 A That is all in the letter. That is all in  
18 the September 22nd letter to Mr. Giuffra.

19 Q After that request, you then made an  
20 effort to find those records; is that right?

21 A That's right.

22 Q Was that a separate production than the

1 one you spoke of earlier?

2 A This was the first production. This is  
3 when I thought we were just giving copies of things  
4 we'd already given to other parties.

5 I just brought this up because I  
6 remembered that that was something else that I  
7 produced at that time.

8 Q What was the next production?

9 A The next production was when Bob decided  
10 that he wanted pretty much everything that we had,  
11 and was going to be satisfied if we started out by  
12 giving him the documents that were in the possession  
13 of the three deponents from our office.

14 Q How did you conduct that search?

15 A That search, I went to the three deponents  
16 and asked them what they had. It was easy to deal  
17 with Bob Ceska's because I just decided to produce  
18 everything that Bob Ceska had that hadn't already  
19 been produced. Since it was a small amount of  
20 documents, that would be easy.

21 I spoke to --

22 Q Was Jim Cottos one of them?

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1 A Yes. I spoke to Jim Cottos. And again, I  
2 guess this was all -- I'm reading my October 13th  
3 letter.

4 Q Which is a transmittal of the documents to  
5 the committee; is that right?

6 A That's right -- in which we say that we're  
7 producing all communications between our office, in  
8 this case, Jim Cottos, documents in his office, to  
9 all the other parties. And that was the first time I  
10 found out that Jim had some documents outside of the  
11 main grouping of OI files that were in his own  
12 office, and asked to see those documents.

13 He made copies of them for me, and I  
14 included them as pages 841 to 898 of the Bates  
15 numbered documents we gave to you.

16 Q Were these documents that were created in  
17 the course of his official duties?

18 A They were created during the Whitewater  
19 investigation.

20 Q Were any of these documents in any files  
21 outside of his office?

22 A Jim told me that all the documents that he

1 had were copies of documents that were in the OI  
2 grouping.

3 Q Did he offer those to you, or did you  
4 become aware of them and ask him for them?

5 A I told him that I was producing all the  
6 documents that met the request that I just mentioned  
7 before, and that I wanted him to be sure that all  
8 these were copies of documents that were in the main  
9 grouping.

10 I was representing that that's what I was  
11 doing. So instead of having to compare the documents  
12 to what I had already culled from the OI files, Jim  
13 had made copies of the documents he had, and just  
14 gave me those copies.

15 Q And how many documents were in his safe?

16 A 20 to 30 pages, a smaller number of  
17 documents because some of them were just more than  
18 one page.

19 Q How about the documents you had collected  
20 before that, all the documents that were in his  
21 possession? I'm sorry -- all the Cottos documents  
22 that were in the other files?

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1 A By "Cottos documents," do you mean  
2 everything in OI?

3 Q You said you didn't want to -- instead of  
4 comparing them, you just copied all the documents.  
5 I'm just trying to see what you were comparing them  
6 to?

7 A I was comparing them to documents 899  
8 through 1148, which are those that I pulled from the  
9 OI files after Bob Giuffra came back and asked for  
10 additional documents. But I stopped comparing since  
11 he gave me copies, and then I included his copies as  
12 841 through 898.

13 Actually you can tell right there, there  
14 were 57 pages. So I guess I underestimated the  
15 amount.

16 Q Okay. Then you were discussing the search  
17 made, first for Mr. Ceska and then Mr. Cottos.

18 A And then I asked Francine Kerner to  
19 produce all the documents that she had.

20 Q How did you collect those?

21 A Well, Francine came down one day, and she  
22 gave me a big bunch of documents. And then she came

1 back later on, after I had already started to process  
2 those documents, and said, "Oops, I have more  
3 documents." So that increased what I was going to be  
4 producing to the Senate by another 500 pages, I  
5 think, something like that.

6 Q When did she come by with the first set of  
7 documents?

8 A I think that this is on a Friday. Do you  
9 have a calendar with you?

10 Q Your transmittal letter said it was the  
11 13th.

12 A That's right. This is a Friday. It would  
13 have been October 13th, right.

14 Q The day of the production?

15 A The day of this production to you, yes.

16 Q So she came to you Friday with the first  
17 box?

18 A And the second.

19 Q So what time did she come by with the  
20 first box?

21 A The first time was, I think, mid-afternoon  
22 to late afternoon. And then she went upstairs to

1 some office she was working in, and then came down  
2 and said, "Oops, I forgot to give you these."

3 Q Where did she get the documents that she  
4 produced to you?

5 A I don't know, some office that she was  
6 working at. I think it was on the fourth floor in  
7 the main Treasury Building.

8 Q So she had maintained these filed in the  
9 Office of Treasury?

10 A I don't know that either. I kind of doubt  
11 it because she wasn't working there. She was only  
12 working in that office while she was dealing with the  
13 Whitewater production, I guess, and preparing for her  
14 testimony. She doesn't work in the main Treasury  
15 Building anymore. She works over at FINCEN,  
16 F-I-N-C-E-N, Financial Crimes Enforcement Network.

17 Q So she had an office on the fourth floor  
18 that you understand she was an office she was working  
19 in to get ready for her deposition?

20 A Right. It wasn't a permanent office.

21 Q What department was that located in, her  
22 office; do you know?



1 A I think it was where the Waco production  
2 room was.

3 Q Is that a common practice, to give people  
4 rooms to work at to prepare for depositions?

5 A I don't know. She worked on Waco, so she  
6 knew that the room was available.

7 Q So she was also working on Waco at the  
8 same time?

9 A That was before, and I'm not sure if it  
10 was at the same time. I did not keep track of all of  
11 her activities.

12 Q I was just asking if you knew if she was  
13 working out of that office for any other purpose?

14 A Oh, no. When I asked her for these  
15 documents, I do not think she was working on Waco.

16 Q But she had worked on it previously?

17 A Yes.

18 Q When did you first inform her that you  
19 wanted to get files in her possession?

20 A It was very close to the 13th. If it  
21 wasn't the 13th, it was the 11th or 12th.

22 Q And she was working out at FINCEN, you

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1 said? That's in Vienna, Virginia?

2 A That's right.

3 Q Did she say whether she had files at the  
4 office in FINCEN?

5 A I don't know if she kept papers there, or  
6 if she kept them at home. I don't know where she  
7 kept them. But it's my impression that they were not  
8 stored in the main Treasury Building, and she brought  
9 them from wherever she had them to the main Treasury  
10 Building to work on them.

11 Q Do you know when she brought them over?

12 A No.

13 Q Had she brought them over before your  
14 request?

15 A I don't know. That question, I do not  
16 know the answer.

17 Q So you said -- you testified, pardon me --  
18 she brought one box over mid-afternoon. Where were  
19 you when she brought it over to you?

20 A At my office at OC.

21 Q What did you do with the documents when  
22 she gave it to you?

1 A Well, I started processing it, making  
2 copies of these documents, stamping them with the  
3 Bates stamper, and marking confidential those  
4 documents which we had intended to claim privileges  
5 for, as against third parties.

6 I might say that Francine's documents were  
7 all copies of documents that OC already had in its  
8 possession. So I was dealing with copies of copies  
9 at that point.

10 Q So had they already been produced to the  
11 committee, or were they just already in the  
12 possession of OC?

13 A They were produced to the committee if  
14 they met the other criteria that we had previously  
15 discussed.

16 Q And now you were looking at documents that  
17 met the criteria that you spoke with Mr. Giuffra  
18 about with regard to the three individuals?

19 A Right. He said he wanted to know who had  
20 what documents. So even though there were copies in  
21 many instances, we copied them again and produced  
22 them, as you can see in this October 13th letter

1 identifying which person had which documents in their  
2 possession.

3 Q How long did it take you to process the  
4 first box?

5 A About an hour to two hours.

6 Q Had you finished processing it by the time  
7 she came back?

8 A Yes.

9 Q You said she brought the second box over  
10 late afternoon. About what time?

11 A 6:00 o'clock, 7:00 -- it was late.

12 Q Probably on into the evening?

13 A Yes.

14 Q You said it was about 500 pages. Is that  
15 right? Do you recall?

16 A I think it was 500 because, in my October  
17 13th letter, the documents that came from Francine  
18 Kerner are listed in two separate Bates numbers.

19 Q Without referring to the letter, do you  
20 recall how much stuff?

21 A Actually it would have been much more than  
22 this also, because I didn't include extra copies. I

1 tried to weed out some of the extra copies.

2 Q Do you recall how much stuff? Was she  
3 carrying them in her hands? Did she have a hand-  
4 truck?

5 A It wasn't a hand-truck. I think it was in  
6 cardboard boxes, one box each time. And the box  
7 wouldn't have been full. But that's how she carried  
8 them.

9 Q What did you say when she brought you the  
10 second box?

11 A Am I allowed to say this on a transcript?  
12 I said, "Oh, shit, Francine." I was upset,  
13 significantly. I didn't want to stay there all night  
14 long producing documents. I was already -- I was all  
15 set to give you guys our documents, and here comes  
16 Francine with a big pile of extra documents.

17 Q What did you do after you told her that?

18 A I started processing those documents.

19 Q Did she have any reaction? Did she  
20 apologize?

21 A She felt very bad about it. She  
22 apologized, and she offered to help me produce the

1 documents. So she actually helped me by making  
2 copies and going through the documents.

3 I wanted to have my weekend without coming  
4 to the office. And I had already arranged, since it  
5 was late, with Joe Kalinski, and I guess Bob or  
6 someone else -- maybe it was even you -- to bring the  
7 documents -- I think it was you -- to bring the  
8 documents to the Senate on Saturday.

9 And I figured that it would be easier for  
10 me if I just brought it from home instead of coming  
11 to work. So I wanted to stay at work and finish this  
12 job. WE stayed until like 11:00 o'clock. I went  
13 through the same process of going through the  
14 documents. I did get rid of a significant number of  
15 copies, extra copies.

16 Q How did you get rid of them?

17 A Threw them on the floor, when I recognized  
18 they were copies, and continued thumbing through  
19 them, and then shredded them, then stamping the ones  
20 confidential that we wanted to claim privilege for.

21 Q What volume of documents would you say you  
22 shredded that night?

1 A It's very hard for me to say. All I know  
2 is that it was exasperating, because Francine kept  
3 multiple copies of practically everything. It was  
4 not a pleasant task.

5 Q Could you tell me the process that you  
6 were involved in while you were making copies and  
7 getting this production ready?

8 A She made the copies. I put the Bates  
9 stamps on and claimed the confidentiality.

10 Q So she'd make them and then she handed  
11 them to you, or did she put them in a pile or  
12 something?

13 A It was a combination of those things.  
14 She'd either hand them to me, or put them in a pile,  
15 and I would come get the next round.

16 Q Of the documents that she was making  
17 copies of, how many of those, what percentage -- you  
18 were pretty familiar with the documents. What  
19 percentage would you say were duplicates?

20 A I think, you know, it wouldn't be too far  
21 from the mark to say that there was at least two  
22 copies of everything. And it was certainly true to

1 say that there were 10 or more copies of many of the  
2 documents, all out of order, I might add.

3 MR. PORTNOY: The sequence of events, if  
4 you don't mind my putting a question -- did you  
5 review the documents to identify duplicates before  
6 they were copied or after they were copied?

7 THE WITNESS: I think that's something  
8 that I did after and before I Bates stamped them.

9 BY MR. O'CALLAGHAN:

10 Q How did you identify what was a duplicate  
11 and what wasn't?

12 A First of all, again, everything was a copy  
13 of a copy at this point. So there were no originals  
14 to be had.

15 I was not going to be destroying  
16 originals. It was just, as they came up, I'd grab a  
17 pile, and the next pile, I'd look through them,  
18 notice July 1, July 1, July 1.

19 Q So you were eyeing what you thought you'd  
20 already seen before?

21 A Yes.

22 Q Is it possible that you might have thrown



1 anything to the side that might not have been a  
2 duplicate?

3 A It is extremely unlikely.

4 Q But it's possible?

5 A Well, I guess it's possible.

6 Q Did you have a set that you could check  
7 them against before you threw them to the side?

8 A I didn't do that type of checking, even  
9 though I had what I thought was close to one copy as  
10 I could make for that evening.

11 In other words, it was because I had  
12 already seen the documents, I knew what the document  
13 was. And I eyeballed it and could tell, this indeed  
14 was an extra copy.

15 Q Is that the same process you used when you  
16 made the first production also?

17 A To the Senate?

18 Q Yes.

19 A No, because that process I culled together  
20 and grouped together like documents from the House  
21 and the Independent Counsel production. I put them  
22 in chronological order. Then when I saw actual

1 copies, then I got rid of the duplicates.

2 Q So you were able to winnow it down to one  
3 copy of each document?

4 A That's right, as best I could, I believe.  
5 Even in that production, I did produce duplicates. I  
6 wasn't able to get everything.

7 Q Do you recall how many documents you threw  
8 to the side and then shredded? Can you make an  
9 estimation of the volume?

10 MR. McDOUGAL: Could the question be  
11 specific as to which event?

12 MR. O'CALLAGHAN: On the 13th.

13 THE WITNESS: From Francine's pile?

14 BY MR. O'CALLAGHAN:

15 Q Yes.

16 A Scores of them.

17 Q Earlier you indicated that you were going  
18 through a box that wasn't full, right?

19 A Right.

20 Q What percentage of the box was shredded by  
21 you?

22 A That is just so hard for me to estimate.

1 Anything I would say would be a guess. I don't know  
2 what percentage, I'm sorry.

3 Q When you shredded the documents, did they  
4 fall into a bin or a bucket?

5 A On the floor, the floor in my office. I  
6 sit at my desk like this.

7 Q You threw them on the floor. But when you  
8 shredded them --

9 MR. PORTNOY: Let the record reflect that  
10 Mr. Doery was demonstrating how he sat at his desk.  
11 He had the folder of documents on his lap, and was  
12 paging through them, and effected to throw one to the  
13 side.

14 MR. O'CALLAGHAN: And also had his feet up  
15 under him, on top of the chair.

16 BY MR. O'CALLAGHAN:

17 Q I understand you threw the duplicates that  
18 you thought were duplicates on the floor. The  
19 question is, you then took them to the shredder,  
20 right?

21 A That's right.

22 Q Did you take them in at one time, or did

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1 you make a couple of trips?

2 A It was more than one trip. It was each  
3 time I went through the next pile of documents that  
4 Francine copied, pretty much.

5 Q When you put the documents in the  
6 shredder, what kind of shredder was it?

7 A I don't know the different kinds of  
8 shredders.

9 Q I believe there are a couple of different  
10 kinds. I think there are a couple that, like an  
11 eighth of an inch strip. It looks like a pasta maker  
12 almost. One pulverizes it, and turns it into dust.

13 A No, it was not a duster. It was a  
14 fettucini type.

15 Q Once the paper was shredded, did it go  
16 into a bin or garbage can or bag?

17 A Well, the shredder itself has a bin, a  
18 plastic bag that catches it all.

19 Q Kind of like the lawn mower type thing?

20 A No. Well, it's something that stands up.  
21 The shredding apparatus is at the top. And the  
22 documents by gravity fall into the elongated box.

1 Q Was there any shredding material in the  
2 box that you remember when you started shredding?

3 A I'm sorry.

4 Q When you began your shredding that  
5 evening, was there any existing shredded material in  
6 the box when you started?

7 A I think so. In our office, we have many  
8 occasions in which we need to destroy documents so  
9 that people who are not supposed to see them do not  
10 see them.

11 Q The specific question is if you recall  
12 that evening whether there was any existing shredded  
13 material in the box?

14 A Yeah. I think that it was reasonably full  
15 already, because I know that by the time I got  
16 through that we had already hit the top of the box.  
17 We were filling up that box pretty well.

18 Q Do you know if anyone in your office had  
19 done any shredding that day?

20 A I probably would have.

21 Q In connection with what?

22 A The first bunch of Francine Kerner's

1 documents. I think that all the documents I would  
2 have been shredding that day would have been  
3 Whitewater because that's the only thing I was  
4 working on at that time. But there were three other  
5 lawyers. It was a Friday -- no, there would have  
6 been two other lawyers in the office who might have  
7 shredded documents, too.

8 Q Do you know what they were working on?

9 A No. I don't remember what they worked on  
10 on the 13th.

11 Oh, I do remember something, though. It  
12 would not have been Lori Vassar, my boss, because --  
13 no, I take that back. It could have been.

14 Q Why did you first indicate --

15 A Because she didn't come in on the day of  
16 the march, the Million Man March. But that wasn't  
17 Friday, that was a Monday.

18 MR. PORTNOY: That was the following  
19 Monday.

20 THE WITNESS: I knew she missed one of  
21 those days.

22 BY MR. O'CALLAGHAN:

1 Q Did anyone else shred documents on the  
2 13th in your office?

3 A Let me say this also. I don't know  
4 whether the other lawyer shredded documents. But  
5 it's also the case that documents, when they're  
6 shredded, we don't empty that bin every day. There  
7 could be documents from two weeks ago in there.

8 Q Are you aware of any other attorneys that  
9 were shredding documents that day?

10 A I don't specifically recall that, if  
11 that's the question.

12 Q Did Ms. Kerner shred any documents that  
13 evening?

14 A Yes.

15 Q What did she shred?

16 A Francine had problems with the copy  
17 machine. And I know that, for example, once a whole  
18 big stack of copies came out wrong. Either they were  
19 misaligned, or the toner was wrong; something like  
20 that happened.

21 So she had to shred a large number of  
22 documents and then recopy them from her copies. And,

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1 you know, she might have been getting rid of copies  
2 also. But I don't know that, you know. Any of those  
3 documents were all copies.

4 Q Approximately how many documents or how  
5 many pages did she shred?

6 A I have no idea.

7 Q You saw her shredding a great deal. Did  
8 she spend a long time?

9 A I didn't see her go to the machine. I  
10 heard the machine from my office, because I was up  
11 mostly working in my office.

12 Q Was she working in your office also?

13 A No. She was working right outside my  
14 office. The copy machine, you can see it from where  
15 I sit. And there's a table to the right of that  
16 machine. And she was piling documents onto that  
17 table.

18 Q How many times did she use the shredder?  
19 Did she use it more than once?

20 A It seems likely.

21 Q Do you remember whether she used it more  
22 than once?



1 A I don't particularly recall. I think that  
2 she probably did do it more than once. But I don't  
3 have the specific recall on that.

4 Q Have you had any conversations with Ms.  
5 Kerner regarding these events?

6 A Only the other day I did.

7 Q When did you speak to her?

8 A Was that yesterday? Day before. This is  
9 Thursday; it would have been Tuesday.

10 Q What did you talk about?

11 A My counsel was also representing Francine,  
12 and wanted -- what was it you wanted? He wanted  
13 something for Francine. And I was bringing some  
14 papers to her, or something like that, up in this  
15 Waco room, the formerly-used Waco room.

16 Q She wanted some documents?

17 A She wanted something. I don't remember  
18 what it was.

19 Q Do you remember what you brought her two  
20 days ago?

21 A Do you remember?

22 Q Was it paper? Do you remember what you

1 brought over to her? Was it paper? Was it a  
2 thermos?

3 A I can't remember. It wasn't a thermos.  
4 Probably a piece of paper. Maybe it was just  
5 information. I honestly don't remember what it was.

6 Q Was it a document relevant to the  
7 committee's request?

8 A I can't say. I don't remember at all. If  
9 I remember before we finish here, I'll tell you what  
10 it was. I just can't remember.

11 Q I might be able to help you. Did she call  
12 you and ask you for something?

13 A Yes.

14 Q When did she call you?

15 A It was probably mid-day sometime. It was  
16 a voice mail message that I got. I didn't speak to  
17 her directly.

18 Q She called you from her office at FINCEN;  
19 is that right?

20 A No. I believe the call would have been  
21 placed from that Waco room. I could be wrong about  
22 that.

1 Q What was the message on the voice mail?  
2 A That she needed either some information or  
3 some documents, and would I call her? So instead of  
4 calling, I just went up there.  
5 Q Up to her temporary office in Treasury?  
6 A That's right.  
7 Q Did you bring anything with you?  
8 A I either brought my knowledge of the thing  
9 that she wanted, or a document. I had something to  
10 discuss with her or tell her or give her. I thought  
11 it was pursuant to a request by counsel.  
12 Q What time did you go up and talk to her?  
13 This was Tuesday, right?  
14 A Yeah. I think it was late afternoon.  
15 Q Had you already had lunch?  
16 A Yes.  
17 Q Was the sun still up?  
18 A Can you help?  
19 MR. McDOUGAL: I can't testify. We can  
20 talk about it off the record, if it will do any good.  
21 THE WITNESS: I don't remember if the sun  
22 was up. It was probably getting dark.

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1 MR. PORTNOY: Let's go off the record.  
2 (Discussion off the record.)  
3 (Readback.)  
4 BY MR. O'CALLAGHAN:  
5 Q So you went up to see Ms. Kerner; is that  
6 correct?  
7 A That's right. And as I said, I don't  
8 recall if I even gave her anything. I might have  
9 just told her something that I knew about, and I  
10 wanted to see her because I hadn't seen her in  
11 several days. That's why I went instead of calling.  
12 That's the best I can do. I'm sorry.  
13 Q Was anyone in her office when you went up  
14 there?  
15 A Yes, my counsel was there, John McDougal.  
16 Q Did you have any discussions with Ms.  
17 Kerner with regard to the substance of her  
18 deposition?  
19 A Her deposition? This is before she was  
20 deposed.  
21 Q Correct. Did you have any discussions  
22 about what she might be testifying about, or any of

1 the subject matter of the deposition.

2 A Well, I mean, I'm not sure if this is  
3 going to answer your question. But I did tell  
4 Francine that I was the one who was being discussed  
5 in the newspapers for having shredded documents. And  
6 I guess she kind of knew that already. But she  
7 thought that she might have been being referred to  
8 also, and I assured her that she was not; it was me.

9 Q Had she asked you about that, or did you  
10 just offer that?

11 A I think she might have made a reference to  
12 it, and then I said -- she might have made a  
13 reference to the fact that she thought that she was  
14 being blamed for shredding documents. And I told  
15 her, no, it's me.

16 Q Did she give you any reason why she  
17 thought she might be the person being blamed for  
18 shredding documents?

19 A No. No one had talked to her, and I  
20 hadn't talked to her since the newspaper article came  
21 out, and she was in fact shredding documents in my  
22 office.

1 Q Did you discuss any other issues that  
2 would be the subjects of her deposition?

3 A We might have. I can't recall exactly.

4 Q Did she ask you about any events that  
5 occurred in the summer of '94?

6 A I know we talked about some of those  
7 events. And we were both sort of, "Oh, that's what  
8 happened. Oh, that's what happened."

9 I remember asking her about what happened  
10 to some of the copies of the documents that were  
11 given to us by the Office of General Counsel, for  
12 example, and she answered that question. It jived  
13 with what I thought had happened. It's just that I  
14 was actually hearing from her, and I knew that my  
15 suspicions were correct.

16 Q When you're talking about copies received  
17 from the General Counsel's Office, what are you  
18 referring to?

19 A The General Counsel's Office had  
20 apparently given us three copies of all the documents  
21 that were produced to us and that now have been  
22 produced to you.

1 Q When you say "produced to you," produced  
2 to you pursuant to the investigation?

3 A Pursuant to our investigation. This is  
4 before we even started our investigation. They gave  
5 us three copies. To my knowledge, we only had one  
6 copy. Francine explained to me what happened to the  
7 other two copies.

8 Q What happened to the other two copies?

9 A One copy was given to the RTC because this  
10 was a joint investigation. And the other copy,  
11 Francine destroyed, or had destroyed, by our  
12 secretary, because we didn't need it.

13 That was after the investigation was over,  
14 and the copy that was retained was retained in OI.

15 Q Did you discuss any other issues that  
16 might have been the subject of the deposition?

17 A Yes.

18 Q What else did you discuss?

19 A I don't know if it will be helpful to go  
20 off the record to ask my counsel if he remembers any  
21 of this, because he was there for the whole thing.

22 Q We'd rather have you talk about it.

1 A I have trouble remembering. I remember  
2 those things I told you about.

3 Q Did she ask you about your recollections  
4 of the events during the investigation?

5 A No. Anything would have been -- I'm  
6 trying to think.

7 (Pause.)

8 I remember. She talked to me about her  
9 representation, and that she was pleased with John,  
10 and displeased with Valerie. And she said that. She  
11 had been thinking that Valerie -- not Valerie,  
12 Lori -- Lori Vassar was going to represent her. And  
13 then she didn't. And Lori wrote to the committee  
14 saying that she would not be representing her.

15 Q Did you discuss any events in connection  
16 with the IG investigation from the summer of '94?

17 A No, I don't think so.

18 Q Any discussion of the transcripts produced  
19 in that investigation?

20 A I don't think so. I had talked to her  
21 about that before. I don't think we talked about  
22 that.



1 Q When did you talk to her about it before?

2 A While she was my boss.

3 Q In connection with what?

4 A In connection with, I'm in the office.

5 She's my friend. She talked to me about it.

6 Q While the investigation was going on, or  
7 subsequently?

8 A After the investigation.

9 Q Any other discussions you had on Tuesday  
10 night?

11 A I don't remember any.

12 Q Going back to October 13th, you say you  
13 were copying until about what time?

14 A Well, we were in the office till around  
15 11:00 o'clock. The copying took place, and the Bates  
16 stamping and marking documents confidential.

17 Q When did you begin that process?

18 A Remember, there were two times when  
19 Francine brought documents around. The second time  
20 are you asking about, or the first?

21 Q The second time. You said you completed  
22 the first one by the time she returned, correct?

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1 A That's right. So the second time would  
2 have been, I don't know, 7:00 or 8:00 o'clock.

3 Q You jumped into it when she brought the  
4 box down?

5 A As soon as she came down, I complained,  
6 and then we dug in.

7 Q Was anyone else at the office when she  
8 came by with the documents?

9 A Yes. Lori Vassar was there.

10 Q Did she have any reaction to Francine  
11 walking with the box of documents?

12 A Well, you know, I don't think she was too  
13 happy because she knew I was going to be stuck with  
14 doing this job. She offered to help out, and I told  
15 her, no, I would do it. And she could go home. So  
16 she didn't stay for the whole time. She was there  
17 for some of the time.

18 Q When would you say she left?

19 A Seven-ish, seventy-thirty.

20 Q Did Ms. Vassar know that you have  
21 previously shredded documents while in the middle of  
22 production?

1 A I assumed that she knew, but I'm not sure  
2 that she knew that this is what it was for. I mean,  
3 I was shredding documents while she was around.

4 Q So just, it's your general practice to  
5 shred documents while you're doing productions?

6 A Doing productions is not my general  
7 practice to begin with. I'm used to issuing  
8 subpoenas, not responding to them.

9 Q How many document requests have you  
10 managed?

11 A Outside of litigation, you mean? Outside  
12 of a discovery request from someone, this is the  
13 first time that I was dealing with producing  
14 documents to the Hill.

15 Q Was the subpoena under the request from  
16 Independent Counsel the first time you were involved  
17 with managing production?

18 A This type of production.

19 Q This type of production. Have you been  
20 involved in any other kind of production before?

21 A Well, discovery production.

22 Q What was your involvement in those

1 productions?

2 A Before a period in my career, you mean?

3 Q Correct.

4 A I was in private practice for a few years,  
5 during which discovery requests were pretty common.  
6 And I worked in another Inspector General Offices  
7 where I would respond to discovery requests and issue  
8 them in litigation.

9 Q I neglected to ask you this earlier, but  
10 could you give us your employment history since you  
11 graduated from law school? I meant to do that at the  
12 beginning, and I apologize.

13 A Well, I worked in three different law  
14 firms after graduating. Then I joined the EEOC for a  
15 very short period of time, about seven weeks, I  
16 think. Then I was in --

17 Q I'm sorry. Could you give timeframes?

18 A I graduated in 1984.

19 Q Where did you graduate from?

20 A From George Washington University,  
21 National Law Center. And I was in three different  
22 law firms, the first two for short periods, and then

1 next one for like a year and a half.

2 Q Do you recall the names of the firms?

3 A The first one was Lurye & Mercer. And the  
4 Law Offices of Lee Rogers. And then Cantor Kent &  
5 Sullivan.

6 Q When did you begin at the EEOC?

7 A That would have been -- I think it was the  
8 beginning of '87 for around seven weeks or so.

9 Q Why were you there for only seven weeks?

10 A I had been looking for jobs. Before  
11 taking that job, one of the other jobs I had applied  
12 for, but I liked more and that I wanted more, came  
13 through. And that's when I left and joined the  
14 Inspector General's Office at Commerce.

15 Q How long were you there?

16 A Six years.

17 Q Who did you work for there?

18 A Lynda Sundgrove for awhile. She's now the  
19 Inspector General at the NSF, National Science  
20 Foundation. Lisa Barlow, Wayne Weaver -- those were  
21 the different Counsels to the IG while I was there.

22 Q Did you ever work with Ms. Kerner over

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1 there?

2 A Yes. She was not my boss.

3 Q What was her position?

4 A She had formerly been the Counsel to the  
5 Inspector General. That's before I got there. She  
6 was an assistant counsel.

7 Q Where did you work after Commerce?

8 A Treasury. The Inspector General's Office,  
9 my current job.

10 Q When did you begin there?

11 A January '93, to the best of my  
12 recollection.

13 Q I'd asked you when you'd done previous --  
14 about your involvement in previous document  
15 productions. Had you -- has it always been your  
16 practice to shred duplicates or extra copies while  
17 you're in the process of doing production?

18 A I have always considered that if I have  
19 extra copies of something, unless the copies are  
20 being asked for, that it is permissible to get rid of  
21 them, and not to produce them.

22 The only time I've ever really had access

1 to a shredder has been in the Treasury Department.  
2 In the Commerce Department, we used burn bags. And  
3 in the law firms, the garbage cans.

4 Q While you were at Commerce, had you used  
5 burn bags while in the middle of document  
6 productions?

7 A I may have. You know, again, I never  
8 responded to a major document request from the Hill  
9 at all when I was at Commerce. I responded to  
10 document requests from litigants, and I would have  
11 gotten rid of copies -- if it has been a practice to  
12 get rid of extra copies.

13 Q When Ms. Kerner offered to help you with  
14 the production of her documents, did you have any  
15 hesitation because you knew she was going to be  
16 deposed or a fact witness?

17 A I didn't have hesitation. Francine Kerner  
18 has more integrity than just about anybody that I  
19 know. She's entirely trustworthy in my opinion.

20 My boss had been there, Lori Vassar. She  
21 didn't see a problem with her helping me out. And  
22 all of the documents that Francine had were copies

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1 anyway of documents that we had in our own file. I  
2 didn't see any problem with her helping me.

3 Q You finished putting together the  
4 documents, you said at approximately 11:00?

5 A Yes.

6 Q How many documents had you assembled for  
7 the next production?

8 A How many pages, you mean?

9 Q Yes.

10 A That would have been -- I think that we  
11 divided Francine's up into this bottom paragraph on  
12 my October 13 response, which would have been  
13 documents 1643 to 2181, which is about 500  
14 documents -- 500 pages.

15 Q Did you put it in a box or an envelope?

16 A Yes. They were put in an envelope. The  
17 copies for you guys were put in an envelope, which I  
18 brought home.

19 Q Did you maintain copies for yourself?

20 A Yes.

21 Q Where did you put those?

22 A That was in a box next to my desk, with



1 all the other documents we produced to the Senate.

2 Q How did you get home that night?

3 Actually, after you finished -- let me  
4 just walk you through it. After you finished making  
5 the copies and going through the production, what did  
6 you do after you finished production?

7 A Well, I put all the documents in these  
8 envelopes, labeled it for Joe Kalinski and Bob  
9 Giuffra, got my jacket, turned off the lights and the  
10 copy machine, and locked the door.

11 Q Do you have to sign out in your building?

12 A No.

13 Q Is there a guard on duty in your building?

14 A There is Secret Service.

15 Q You don't have to sign a log-out or  
16 anything?

17 A That's right.

18 Q How did you get home that night?

19 A Francine drove me. She was still feeling  
20 guilty.

21 Q And you said you had the production with  
22 you?

1 A Yes.

2 Q You brought it home with you that night?

3 A That's right.

4 Q What's the address?

5 MR. McDOUGAL: I don't think there's any  
6 need to have it in the public record.

7 MR. O'CALLAGHAN: I'll withdraw that.

8 THE WITNESS: I mean, can we withdraw that  
9 last question? No one needs to know where I live.

10 Can we go off the record for a minute?

11 (Discussion off the record.)

12 MR. O'CALLAGHAN: We're back on.

13 BY MR. O'CALLAGHAN:

14 Q Mr. Doery, is your home on the way from  
15 Ms. Kerner?

16 A Yes.

17 Q Where does she live?

18 A In the Maryland suburbs.

19 Q You said you brought the documents home  
20 with you?

21 A Yes.

22 Q Is that something you had done before,

- 1 brought official documents back to your house?  
2 A Official documents from any IG work?  
3 Q Correct.  
4 A Yes, of course.  
5 Q How about with regard to documents that  
6 you've produced in relation to an inquiry?  
7 A In the Whitewater case?  
8 Q Let's start with, in any case?  
9 A In any case. I may have. I work at home  
10 frequently  
11 Q How about with regard to documents  
12 requested by the Independent Counsel?  
13 A I don't remember doing that. I might  
14 have. I don't remember.  
15 Q How about documents related to the House  
16 side?  
17 A I definitely did not for the House.  
18 Q Why do you say that?  
19 A Because the House production was easy.  
20 That was done in one day, once the House came and  
21 picked out which documents they wanted.  
22 Q And other than the documents on the night
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- 1 of the 13th -- I'm sorry, was it the night of the  
2 13th?  
3 A That's right.  
4 Q So, other than the documents you brought  
5 home with you the night of the 13th, have you brought  
6 home any documents with relation to the production to  
7 the Senate in this inquiry?  
8 A No.  
9 Q I see that the cover letter that  
10 accompanied these documents was written on the 13th;  
11 is that right?  
12 A Right.  
13 Q And the documents were brought over on the  
14 14th?  
15 A That's right.  
16 Q Were all the documents you brought home  
17 then brought over to the Senate?  
18 A Yes. I sealed the envelope at my office.  
19 Q Prior to the 13th -- let's put that the  
20 week of the 13th, before that, had you had any  
21 contact with Ms. Kerner during that week?  
22 A I may have.

1 Q Was she involved in producing any  
2 documents to you before the 13th?

3 A No.

4 Q Was she involved in reviewing any  
5 documents that week?

6 A She might have reviewed her own documents,  
7 but not anything that was in the OIG.

8 Q Were you present with Ms. Kerner when she  
9 was reviewing any of the documents in connection with  
10 this inquiry?

11 A When she was reviewing her own documents?

12 Q Any documents related to this inquiry?

13 A Well, I guess the answer is no. I mean,  
14 we were there together when we were going over --  
15 when we were producing the documents that were in her  
16 possession outside of OC.

17 Q Are you referring to when you were copying  
18 the documents?

19 A Yes.

20 Q Was there a time when you provided Ms.  
21 Kerner with any documents to review in connection  
22 with the production or in connection --

1 A Oh, oh, I know. Yes, there was, that's  
2 right. This must have been the same day that I had  
3 gone over to the ICC Building to get documents to try  
4 to meet Mr. Giuffra's request for documents in the  
5 possession of each of the deponents.

6 When I came back from the ICC Building,  
7 she was there looking at documents. That's right,  
8 that's right. She looked at other documents that  
9 were there in our office on that day when I was not  
10 there. There's always someone in the office, but I  
11 wasn't there at the time. And when I came back, she  
12 was there looking at the documents. And I said,  
13 "These are Whitewater documents also." And she  
14 looked through those.

15 Q When you say, "These were Whitewater  
16 documents also," what were you referring to?

17 A The documents that I had brought over.

18 Q From the ICC Building?

19 A That's right.

20 Q What documents were those?

21 A Those were 841 through 898, 899 through  
22 1148, and somewhere in here I included everything

1 from Bob Ceska, but I don't see it right now. I  
2 don't know if I ever actually had anything with me  
3 from Bob Ceska at the time.

4 Q So these were documents from other  
5 people's files?

6 A Yes, from outside of OC.

7 Q Are you aware at the time -- had you been  
8 asked not to provide Ms. Kerner at the time with  
9 documents from other people's files?

10 A No. To the contrary, I was told that  
11 Francine could see all of the Whitewater documents.  
12 She had already seen them.

13 Q Did you later come to realize that there  
14 was a request for her, for witnesses, not to see  
15 documents?

16 A I later did, yes.

17 Q How did that come about?

18 A I was having a conversation with my boss,  
19 Lori Vassar, in which she told me that the Senate had  
20 asked that documents not be shared. And I said, "Oh,  
21 my God, I shared them with Francine when I told her.  
22 I was asked."

1 Q Did Ms. Vassar represent that she thought  
2 she had relayed that information to you earlier, or  
3 was this the first time she had done it?

4 A I think she said that she thought she  
5 might have. But she really should have, and she felt  
6 bad that she didn't.

7 Q Did you inform Ms. Kerner what Ms. Vassar  
8 told you?

9 A Yes.

10 Q When did you do that?

11 A I don't know.

12 Q This was all in the same time period,  
13 wasn't it, the week of the 13th?

14 A Yeah, that's right. It would have been  
15 during that week. So it probably was the 11th or  
16 12th or 13th. It might well have been the 13th. I  
17 can't be sure.

18 Q Within a day or two of the 13th?

19 A Right.

20 Q What did you tell Ms. Kerner? What was  
21 the conversation?

22 A Well, it was just, you know, "You know, I



1 wasn't supposed to show you those documents," I must  
2 have said. And she said that she had heard, I guess  
3 from Lori, that I wasn't supposed to be showing them  
4 to her either. And she said that Lori didn't tell  
5 her, either, that she wasn't supposed to be looking  
6 at documents in other people's possession.

7 Q Before she started looking at them, she  
8 said that Lori -- did Lori tell her at any time that  
9 she wasn't supposed to?

10 A Lori told her after. She said that Lori  
11 did not tell her before I showed her documents, and  
12 that Lori told her after I showed her the documents.  
13 And we discussed the fact that she had already seen  
14 all these documents, and she already had in her  
15 possession, as a matter of fact, almost all of them.

16 Q Were there any documents she hadn't seen  
17 before?

18 A I think that every page, that she had  
19 either seen before -- you know, the documents were  
20 documents she created, a lot of them, and documents  
21 that were sent to her. There were some pages from  
22 Jim Cottos that were his notes on meetings that she

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1 attended. And I think that she saw all the documents  
2 before because she was around during the production  
3 to the Independent Counsel.

4 Q Had she seen the handwritten notes before?

5 A What handwritten notes?

6 Q You said there were notes of meetings.

7 A By Cottos, oh yes, right, handwritten  
8 notes, yes.

9 Q Had she seen those before?

10 A I think so, because those were all  
11 produced to me during the Independent Counsel  
12 inquiry.

13 Q And she had reviewed all the documents for  
14 the same Independent Counsel?

15 A I can't say with certainty, but I'm pretty  
16 sure.

17 Q She helped you out to determine the scope?

18 A Right.

19 Q And whether they were relevant to the  
20 request or the subpoenas; is that right?

21 A Right. Remember, that's when I had no  
22 idea what any of the documents were. That was at the

1 very beginning.

2 Q Was she more familiar with the documents  
3 at that time?

4 A Was she more familiar with them?

5 Q What would be relevant, what wasn't, and  
6 what was within scope?

7 MR. PORTNOY: More familiar than you?

8 THE WITNESS: Well, yes. Thank you.

9 MR. PORTNOY: Can we take five?

10 MR. O'CALLAGHAN: Let's take five minutes.

11 (Recess.)

12 MR. O'CALLAGHAN: Let's go back on.

13 BY MR. O'CALLAGHAN:

14 Q Are you aware of any specific documents  
15 that Ms. Kerner was reviewing that she hadn't seen  
16 before?

17 A No.

18 Q Did she ever identify any, or mention that  
19 there were a couple she hadn't seen before?

20 A She thought at the time I talked to her --  
21 she thought that she might not have seen, or might  
22 not have had in her possession three or four pages of

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1 things. And it's my understanding that she looked  
2 back at her documents and realized that in fact at  
3 least two of those she had already had copies of.

4 I don't know if she ever determined for  
5 herself whether she actually -- I don't know if she  
6 could have that she actually saw them during any  
7 Independent Counsel review production.

8 Q Had you previously -- when reviewing  
9 documents, had you been there with her the whole  
10 time, or were you somewhere else?

11 A When she was looking at documents in OC?

12 Q You said you came in, and then you showed  
13 her the other documents; is that right?

14 A Right. She had been there already. She  
15 was there already looking at the other document.

16 Q Where had you been previously?

17 A I was over at ICC doing this production  
18 here that ended up going to you on the 13th.

19 Q You were getting the Jim Cottos documents  
20 over there?

21 A The OI documents, the Cottos documents, I  
22 guess anything that I hadn't gotten from Bob Ceska

1 already, although that might have been produced.

2 That's right.

3 Q Was there anyone else at the office when  
4 you got there?

5 A Yes. Someone was there. Barry Savo,  
6 that's who it was.

7 Q Who is that?

8 A He is the Special Assistant to the  
9 Inspector General for Audits.

10 Q What was he doing there?

11 A He was just keeping an eye on Francine.

12 We wanted to have someone present when Francine was  
13 in the room all the time, just so we could say  
14 someone was present, and that she wasn't making off  
15 with any documents. Not that we ever expected that  
16 she would, but just for appearance purposes.

17 And before Barry -- Barry was only there  
18 for a short time -- Sharon Separ was with Francine  
19 when she was looking at documents before Barry got  
20 there.

21 When I came, Barry left pretty soon  
22 afterwards.

1 Q Was he waiting for you to get back?

2 A I assume so.

3 Q Had he been asked to be there?

4 A Right.

5 Q Did anyone else show up after that?

6 A Well, eventually Lori showed up.

7 Q What time did she show up, or arrive  
8 there?

9 A It would have been 6:00 or 7:00 or around  
10 there.

11 Q What were you doing in between the time  
12 that you arrived and Lori arrived?

13 A Continuing to produce, you know. I was  
14 probably cataloging the documents or stamping the  
15 documents that I had just gotten from the ICC  
16 Building, and marking them confidential. I was  
17 getting the documents ready to be produced to you.

18 Q How late did you stay that night?

19 A That's the night I stayed till 11:00  
20 o'clock.

21 Q Did you take any documents out of the  
22 office at any time before you went home?



1 A Out of the office? No, I don't think so.

2 Q Did you carry anything to Ms. Kerner or  
3 her car any time that evening?

4 A I might have helped her carry her  
5 documents to her car, but I can't even be sure about  
6 that.

7 No, as a matter of fact, I know what  
8 happened. She carried her own. I only carried  
9 documents that were going to be produced to you. She  
10 wanted to have her documents, and she carried them to  
11 her car.

12 Q These are the copies that she maintains?

13 A Right.

14 Q So that she was bringing those home with  
15 her that night?

16 A I guess so.

17 (Pause.)

18 Q After October 13th, are you aware of any  
19 other time that documents were destroyed or shredded  
20 during the course of production?

21 A Yes.

22 Q What are those other instances?

1 A There is only one other instance that I  
2 can recall, and that was over at the ICC Building, at  
3 OI.

4 Q When did that occur?

5 A I don't remember the date.

6 Q Was it in or around October 18th? Does  
7 that refresh your recollection?

8 (Pause.)

9 Was it the same day you make a production?

10 A It could have been the 18th. I can't be  
11 sure, but the 18th is a good guess.

12 Q What happened this next incident?

13 A Okay. I had already produced everything  
14 from OC, from all the witnesses. All that was left  
15 were the documents that were maintained over at OI.  
16 That included the documents that were given to the  
17 OIG before we started out investigation, and by the  
18 White House before we started our investigation.

19 That is to say, documents that were not a  
20 part of what we created during our investigation,  
21 just background materials.

22 Q I'm sorry. When you say "background



1 materials," what are you referring to?

2 A Documents that were given to us, the IG's  
3 office, to Francine and then to Jim Cottos, in order  
4 to prepare for the investigation. So they were all  
5 created before the investigation started.

6 I hadn't really ever looked at these  
7 documents before because no one wanted them. These  
8 were documents I was totally unfamiliar with except,  
9 you know, thumbing through just to determine that  
10 they weren't the documents that we got from OGC or  
11 from the White House. I didn't know what these were.

12 I brought over a lawyer from OGC who I  
13 believe did know what the documents were, to identify  
14 these documents because we were deciding who was  
15 going to be producing these to you guys, whether you  
16 had the documents already. And I thought that you  
17 already did have them.

18 Q Who was the lawyer that was with you?

19 A Peter Rittling.

20 Q What's his position?

21 A He is a lawyer in the Office of General  
22 Counsel, Administrative Law.

1 Q How did you know to contact him?

2 A He was working on the production for the  
3 OGC. And I had talked to him before.

4 Q In connection with the committee's  
5 request?

6 A Yes. I had talked to him earlier about  
7 producing documents to the House. I knew from past  
8 productions that he knew what these documents were.

9 Q So you all had a similar responsibility  
10 with respect to document requests?

11 A That's right.

12 Q He was your counterpart with regard to  
13 this process?

14 A OGC had more than one person working on  
15 it. I was the only person really working on our  
16 production to you. So he was one of the team that I  
17 was on.

18 Q So you brought him over with you because  
19 he had a better knowledge of the documents you were  
20 about to review; is that correct?

21 A Right. And we were considering in  
22 accordance with the Third Party Rule letting him,

1 that is to say, the OGC, produce documents that were  
2 their documents.

3 And we were having discussions, Peter and  
4 I were, and also the respective staffs, about how  
5 these documents were going to be handled. The OGC  
6 felt that they weren't even relevant to anyone's  
7 production. We mulled that over for awhile, had  
8 conversations with Bob Giuffra about that, and he  
9 said he wanted them anyway.

10 Bring Peter over because maybe Peter could  
11 tell us that these documents had already been  
12 produced, and it would save us a lot of time.

13 Q That they had already been produced by  
14 Treasury?

15 A Right, by anyone, because if they had  
16 already been produced, the way the request came in to  
17 us and the way that I had dealt with Bob Giuffra and  
18 Kalinski was that --

19 (Pause.)

20 MR. PORTNOY: Can we take a minute?

21 (Discussion off the record.)

22 THE WITNESS: If any documents had already

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1 been produced to the committee, we need not produce  
2 them. And I got that idea from the committee's  
3 request of September 12th, which says, "To the extent  
4 documents responsive to this request had been  
5 previously produced to the committee, they need not  
6 be reproduced, but only identified by Bates number."

7 There had also been conversations between  
8 me and Bob Giuffra in which he had agreed that, if  
9 transcripts had already been produced, as I said that  
10 they had been, then we need not provide them.

11 So the very clear understanding that I had  
12 was that the committee did not wish to have copies.

13 BY MR. O'CALLAGHAN:

14 Q You went over there with Peter; is that  
15 right?

16 A That's right.

17 Q Mr. Rittling, excuse me. What time did  
18 you go over there?

19 A That would have been -- why do you ask me  
20 that? I don't remember the time. I don't know. It  
21 was late afternoon, late morning probably. I think  
22 it was late morning.

1 Q What did you do when you got to the ICC  
2 Building?

3 A We started looking at only the documents  
4 that were provided to us by OGC and the White House.  
5 They were mixed together a little bit, so I separated  
6 them out so that only White House documents were  
7 together in one box, and only OGC documents were  
8 together in two boxes.

9 Q Was there just one copy of all these  
10 documents?

11 A To my knowledge. Remember, I hadn't  
12 really looked carefully at these documents before.

13 Q So you segregated the White House  
14 documents from the Treasury documents; is that right?

15 A Right.

16 Q Was Peter Rittling helping you with this  
17 process, or what was he doing?

18 A He was agreeing with me that, yes, these  
19 were White House, and these were OGC. He didn't help  
20 me actually do any separating, that I can remember.

21 Q How long did it take you to do that?

22 A Ten minutes.

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1 Q How many documents total were you looking  
2 at? How many pages of documents?

3 A You know, I can only make a very rough  
4 guess. And I would guess that it would be around --  
5 somewhere between 6,000 and 9,000 pages of documents.

6 Q How many boxes of documents?

7 A Three boxes. One of the boxes, there were  
8 documents stuffed on top, so it was a little bit more  
9 than a box, but not much more.

10 Q What percentage of those were White House  
11 versus --

12 A Two-thirds were OGC.

13 Q What did you do after you segregated the  
14 documents?

15 A Well, Peter was trying to determine, I  
16 don't know, somehow by Bates number or somehow which  
17 documents might have already been preserved, and what  
18 work you would have to do to find out whether they  
19 were produced, and what work you'd have to do to  
20 produce -- what work we would have to do in terms of  
21 redactions.

22 You know, he was just mulling the whole



1 thing over, trying to assess what the job was going  
2 to be.

3 Q Putting a plan together to identify which  
4 documents should be produced, and which had already  
5 been produced?

6 A Right. That's what he was doing. And I  
7 started to look through the White House production,  
8 the White House documents. And I noticed, after a  
9 little while, I pulled out a document that I don't  
10 think was Bates stamped. And it turned out to be an  
11 index. I found out later that it was an index to  
12 White House documents.

13 Q How did you find out later it was an  
14 index?

15 A Because I asked Peter what it was.  
16 Actually I probably found out later than that. He  
17 said, "Oh, this looks like an index to the White  
18 House documents."

19 Q Did you hold it up to him and say, "What  
20 does this look like?"

21 A Yes, I showed it to him. That document  
22 had, I'm pretty sure, 73 pages. And it was stapled

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1 together.

2 Q How do you recall that it was 73 pages?

3 A Because I remember looking at the back of  
4 it, because after I saw that document, I put it back  
5 in. And very shortly after, I thumbed through some  
6 more, and there was another one. It was a second  
7 copy of the same document. And I thought to myself,  
8 "Oh, here we go again, more copies."

9 And then I looked through it, thumbed  
10 through some more documents, and very soon after  
11 that, there was a third copy of the very same  
12 document. And then right after that, there was a  
13 fourth copy of that same document. So I thumbed  
14 through all of those documents, compared them.

15 One document -- one of the documents was  
16 missing the last page. It only had 72. I looked  
17 through all the documents to see that it was in fact  
18 the same document. And then there was a shredder in  
19 the room. This is one of those that really shreds up  
20 the paper to not quite powder, that someone possibly  
21 can't put it back together, not like the one we have.

22 Q It pulverizes it?



1 A Yes. And so I tore apart the three extra  
2 copies, and put them into the shredder, "tore apart,"  
3 meaning there was a staple. There was a heavy duty  
4 staple.

5 Q Were there any handwritten notations on  
6 any of the indexes?

7 A No.

8 Q So they were all exactly identical?

9 A Yes, sir. I have only ever gotten rid of  
10 identical copies. The committee and everyone else  
11 who had documents has all of the information  
12 contained on the documents that are relevant to their  
13 requests, to my knowledge.

14 Q Were there any other White House in the  
15 White House or General Counsel documents that you  
16 were dealing with that contained duplicates?

17 A If there were, I don't really know.  
18 That's the only documents that I know about.

19 Q That's the only one you were able to  
20 recognize as being a duplicate?

21 A Right. That's the only thing I shredded  
22 that day. And I would have shredded other documents

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1 if I could determine that they were extra copies.

2 Q Could you identify the document that you  
3 shredded if you were asked to today?

4 A Yes.

5 Q Do you know if a copy exists?

6 A Of course a copy exists.

7 Q Because it exists in the files that you  
8 were looking at at the ICC Office?

9 A Yes.

10 Q Or the OI Office, I'm sorry, in the ICC  
11 Building.

12 A Yes. It's still there.

13 Q Did Mr. Rittling shred any documents that  
14 day?

15 A No. Only I did.

16 Q What did you do? You say you were going  
17 through the documents and he was trying to formulate  
18 a plan. Did he come up with a plan?

19 A No, he didn't. We just decided he was  
20 going to go back to his office with the information  
21 that, whatever he wrote down, and discuss it with  
22 Brad Buckles. And I went off to deal with some other

1 cases that I had. And I didn't talk to him about it.

2 Q How long were you in there looking up the  
3 documents?

4 A Total time would have been 10 minutes to  
5 15 minutes, not long.

6 Q Did you do anything other than pull out  
7 the indexes and shred the indexes?

8 A Well, I separated out --

9 Q Other than that, I'm sorry.

10 A No, that's it.

11 Q Did you thumb through all the OGC  
12 documents in a similar fashion that you did the White  
13 House documents?

14 A No. I think I went through the White  
15 House ones a little bit more carefully because Peter  
16 was dealing with the OGC docs, and I was curious to  
17 see what it was.

18 Q He was taking notes with regard to the OGC  
19 documents?

20 A I think he took a few notes of Bates  
21 numbers. That's all. It wasn't a lot.

22 Q Did you see his notes, or did he tell you

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1 what he was doing?

2 A I might have seen them. But I couldn't  
3 tell you what he had there. It was just numbers,  
4 wanting to know what the number of the documents was.

5 Q Was there anyone else there when you were  
6 doing this?

7 A When we first got to the room, we were led  
8 in by an OI employee. I don't know who that was.  
9 When I was starting to shred the documents, another  
10 OI employee did walk in.

11 Q Who was that?

12 A His name was Ed Martin.

13 Q Did you have any conversations with him?

14 A Yes, because I was shredding documents,  
15 and he was the keeper of the documents. I told him  
16 right away, "Don't worry, Ed. These are just extra  
17 copies."

18 Q When you say he was a keeper of the  
19 documents, does he have an official responsibility as  
20 a custodian?

21 A Well, a custodian -- you know, the OI  
22 files are all contained in that room where he works.

1 When we in the Office of Counsel need to get access  
2 to them, we call him and he provides them to us. So  
3 again, in that respect, he's a custodian of the  
4 records.

5 He's not a technical custodian of the  
6 records in the sense that I have been for production  
7 of these documents. But he also has the combination  
8 to the safes in which the Whitewater documents were  
9 maintained.

10 Q Is he an attorney?

11 A No. He's an investigator.

12 Q Did he express any concern to you when he  
13 walked in?

14 A He said -- he sort of jokingly said, "Oh,  
15 I don't want to know, I don't want to know." You  
16 know, he helped me figure out how to use the machine.  
17 There was a reverse button if the documents get  
18 jammed. I was putting too many in, and he showed me  
19 how to put the reverse button on, and advised me to  
20 put only a smaller number of documents in at a time.

21 Q Did he ask you what you were shredding?

22 A No, because I told him it was extra

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1 copies.

2 Q Did you tell him what the documents  
3 related to?

4 A I don't remember telling him.

5 Q Did he ask you?

6 A I don't remember. I don't think so.

7 Q Did you have any other conversations with  
8 him?

9 A I mean, he would have known that it was  
10 Whitewater, because that was the Whitewater boxes.  
11 And there was a person -- I don't think he knew Peter  
12 Rittling. And I probably introduced them. I'm sure  
13 I introduced them. I was introducing Peter to  
14 everybody.

15 Q Other than introducing Mr. Rittling, did  
16 you have any other conversations with him?

17 A No. He was explaining how to shred -- use  
18 the shredder. That's it.

19 Q Was there anyone else there?

20 A No. It was, "See you later." No one else  
21 was there.

22 MR. McDOUGAL: Just a second.

1 (Discussion off the record.)

2 THE WITNESS: For your information, a copy  
3 of the index that I destroyed is going to be produced  
4 to you. That work is being done now. For all I  
5 know, it could well have already been produced to  
6 you.

7 BY MR. O'CALLAGHAN:

8 Q But you're certain that no other documents  
9 were shredded on the 18th?

10 A Not that I know.

11 Q Since the 18th, are you aware of any  
12 documents responsive to the committee's request that  
13 have been destroyed?

14 A No.

15 Q I'm not just referring to shredding. I'm  
16 talking about thrown away, shredded, put in burn  
17 bags?

18 A Same answer.

19 Q Did you have any conversations with Ms.  
20 Kerner about a copying session she might have  
21 conducted last weekend?

22 A On the weekend?

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1 Q Right.

2 A No.

3 Q Did she ever tell you she put some  
4 documents in the burn bag while she was making  
5 duplicates?

6 A I don't think so.

7 Q You spoke with her on Tuesday of this  
8 week; is that right?

9 A Yeah. We determined that.

10 If she did destroy documents, they  
11 wouldn't have come from our office. They would have  
12 been her own documents. She couldn't get into our  
13 office.

14 Q Why is that?

15 A It's locked. She does not have the key.

16 Q Have you ever taken originals of  
17 responsive documents out of any Treasury Building?

18 A I believe the answer is no.

19 Q Do you have any reason to believe that you  
20 might have?

21 A I'm only saying that just to be careful.  
22 I'm pretty sure I never did that. I mean, I don't



1 ever specifically recall taking any responsive  
2 documents in this Whitewater affair home with me.  
3 That is not what I would have taken home.

4 I might have taken some case law or  
5 particular memoranda on the issue. But, you know,  
6 not these Whitewater responsive documents.

7 Q Did you speak to anyone other than your  
8 counsel prior to this deposition about the  
9 prospective subject of a deposition?

10 A Well, if you can include the conversation  
11 I had in the presence of my counsel with Francine,  
12 then no.

13 Q That's it.

14 (Pause.)

15 During March through August 1994, did you  
16 have any involvement in the IG's investigation of  
17 White House contacts?

18 A I never had anything to do with the IG's  
19 investigation into White House contacts.

20 Q What were you doing during that time  
21 period?

22 A Everything else that the Office of Counsel

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1 was responsible for. Francine was working almost  
2 exclusively on White Water. I handled everything  
3 else in that office. And believe me, it was no  
4 picnic.

5 (Pause.)

6 Q Were you aware that transcripts were given  
7 to the White House at any time?

8 A Yes.

9 Q When did you become aware of that?

10 A I don't remember.

11 Q Was it contemporaneously or long after?

12 A I doubt it was contemporaneously. I think  
13 it was only when there was a fuss made over it, when  
14 someone complained. You know, it took me awhile to  
15 figure out the significance of that, since I wasn't  
16 involved.

17 Q Are you aware if any investigatory  
18 materials from the investigation, other than the  
19 transcripts, were ever handed over to the White  
20 House?

21 (Pause.)

22 A No. I think that documents may have been

1 given to the White House in accordance with the Third  
2 Party Rule. They are documents for them to produce.  
3 But I don't think I ever did that. I'm not aware of  
4 anyone else giving documents to them.

5 Q This is during the March through August  
6 time period?

7 A That's right. I never dealt with the  
8 White House at all.

9 Q Did anyone that you are aware of involved  
10 in the investigation cause documents, investigatory  
11 documents to be sent over to the White House?

12 A No.

13 Q Have you ever heard that that happened?

14 A Other than transcripts?

15 Q Other than transcripts.

16 A No.

17 Q Have you heard that summaries of  
18 transcripts were delivered to the White House?

19 A No.  
20  
21  
22

1 (Pause.)

2 Q Are you aware whether or not any documents  
3 that were subpoenaed by the independent counsel's  
4 office that were responsive to the subpoena were  
5 withheld for any reason?

6 A There might have been information on  
7 particular pieces of paper that was withheld, because  
8 it was not responsive. But I guess then that would  
9 mean that the answer is "no."

10 Q So you don't know of any responsive  
11 documents that were withheld?

12 A That's right.

13 I should say with regard to that, because  
14 I know that there's been -- someone raised a concern  
15 about that. But I had many contacts with Alex Azar  
16 of the independent counsel's office during that  
17 production. We discussed particular documents over  
18 several conversations.

19 So, if a different investigator that came  
20 from this office might have thought that a different  
21 document should have been included, it was pretty  
22 clear to me that that type of investigator would not

1 have had the privilege of the conversations that I  
2 had with Alex -- can I change that word to "benefit?"  
3 Am I allowed to do that? I don't mean "privilege," I  
4 mean "benefit."

5 Q You can just restate it.

6 A Yeah, but it's on the record already.

7 Q He didn't have the benefit?

8 A The benefit of a conversation with Alex.

9 Come on, guys.

10 (Pause.)

11 Q Are you aware that any electronic mail,  
12 copies of electronic mail that related to the  
13 investigation, were withheld during the document  
14 production to independent counsel?

15 A If they were responsive, they were  
16 produced, to my knowledge.

17 Q You said earlier that you and Ms. Kerner  
18 were the people determining whether documents were  
19 responsive to the independent counsel's request.

20 A That's right. She helped me figure out  
21 what documents were. I made the ultimate decision.

22 (Pause.)

1 MR. O'CALLAGHAN: I have no further  
2 questions at this time.

3 EXAMINATION

4 BY MR. PORTNOY:

5 Q Mr. Doery, my name is Jim Portnoy, counsel  
6 for the Democratic senators on the special committee.  
7 I have a few questions just to follow up on Mr.  
8 O'Callaghan's inquiries.

9 Did you ever shred any documents in  
10 connection with production of any documents to the  
11 Office of Independent Counsel?

12 A During the production to the Office of  
13 Independent Counsel, remember, I was just getting  
14 into all this stuff. I was not really familiar with  
15 the documents.

16 It is possible that I shredded extra  
17 copies, and I must stress that anything I ever  
18 shredded would have been an extra copy or a  
19 duplicate. If I had done that during the time of the  
20 production for the independent counsel, it wouldn't  
21 have been all that many documents. I do not think it  
22 was that much volume.

1 Q Do you have a specific recollection of  
2 shredding any documents in connection with the  
3 production of documents to the independent counsel?

4 A No. I don't have a specific recollection.

5 Q Do you have a specific recollection that  
6 no documents were shredded?

7 A I do not have that recollection, either.

8 Q Are you aware of anybody else shredding  
9 any documents in connection with the production of  
10 documents to the independent counsel?

11 A I do not have a specific recollection --  
12 wait a second, wait a second.

13 (Pause.)

14 I think that there was some shredding back  
15 then, because I think my secretary was given  
16 documents. I might have given her documents back  
17 then. I'm pretty sure. But, you know, my  
18 recollection is hazy.

19 Q You might have given documents to your  
20 secretary to shred?

21 A Right.

22 You've got to keep in mind, there were not

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1 just two copies of things in these files. And again,  
2 I never shredded anything from OI, and I never  
3 shredded anything in Bob Ceska's possession. The  
4 only documents I ever shredded until -- I guess we  
5 determined it was the 18th -- except for that, the  
6 White House index, except for that document, all the  
7 documents I ever shredded were in our office.

8 And Francine didn't just have two copies.  
9 She had multiple copies, actual copies of the same  
10 thing. Sometimes they were documents with multiple  
11 pages. It was very easy to determine that these were  
12 actual copies.

13 Q Before you shredded documents, did you  
14 check them to determine whether there were any  
15 handwritten notations on them?

16 A Yes, for the most part.

17 Q For the most part?

18 A The answer is "yes."

19 Q Is the answer "for the most part," or is  
20 the answer "yes?"

21 A The answer is, I checked them.

22 Q Did you check them to see if there were



1 fax footprints?

2 A I might not have been completely clear on  
3 that. I think I was pretty good about that, but I  
4 admit that I might not have gotten all the faxes, the  
5 lines on the title pages.

6 Q Do you have any recollection of what  
7 documents you might have given to your secretary to  
8 shred?

9 A No.

10 Q For production to the independent counsel?

11 A No.

12 Q Did you shred any documents in connection  
13 with the production of any documents to the House  
14 Banking Committee?

15 A Yes. When I was producing documents to  
16 the House, I made copies of copies that I had  
17 produced to the House and to the independent counsel.  
18 When I meshed the documents, I then shredded those  
19 copies of copies of copies.

20 Q At this time, were documents divided in  
21 any way based upon their source?

22 A No, because the House did not ask, to my

1 recollection, for source.

2 Q So the documents in your production to the  
3 House Banking Committee were not divided based upon  
4 the file in which they originated?

5 A Can I check my file?

6 Q Certainly.

7 (Pause.)

8 A Actually, I don't know if I brought those  
9 documents. I believe that is correct. Remember the  
10 way that the House wanted documents was by  
11 indicating. They came and looked at all the  
12 documents, and just chose, by marking them with paper  
13 clips -- I don't know how they did it -- they  
14 indicated somehow that these were the documents they  
15 wanted copied.

16 Q Was any document indicated by House  
17 Committee staff for copying shredded or destroyed in  
18 any fashion?

19 A No, other than when I was meshing the two  
20 separate productions together, so that I would not  
21 produce extra copies to the Senate.

22 Q To the Senate or the House?

1 A To the Senate.

2 Q Just checking.

3 And that occurred some time later?

4 A Yes.

5 Q Was it your understanding that the Senate  
6 Special Committee's September 12 document request  
7 initially included e-mails and other internal  
8 communications?

9 A Before I had a conversation with Bob  
10 Giuffra?

11 Q That's correct.

12 A Yes.

13 Q Was it your understanding, following your  
14 conversation with Mr. Giuffra, that those documents  
15 had been excluded from the committee's request?

16 A Following the first conversation that I  
17 had with him, I thought that he wanted all of those  
18 e-mails that had been produced to one of the other  
19 requesting parties. So no, e-mails were not  
20 excluded. They were included to the extent they'd  
21 already been produced to others.

22 And also, it is true that he wanted all of

1 the communications between that time period I  
2 mentioned -- I believe around June 1 through August  
3 5.

4 Q Did Mr. Giuffra want internal  
5 communications within the Office of Inspector General  
6 other than those that had been produced to either the  
7 independent counsel or the House?

8 A No.

9 Q Do you know if Mr. Giuffra --

10 A You can tell that is what I thought,  
11 because in my production to him, I say "All records  
12 relating to communications, contacts or meetings  
13 between any present or former employee of the  
14 Treasury OIG, and any employee of the Office of White  
15 House Counsel, OGE, RTC, the House and the Senate."

16 Q And it's your understanding that that  
17 would exclude communications between two employees of  
18 the Treasury Office of Inspector General?

19 A That is correct.

20 Q Do you know if that was Mr. Giuffra's  
21 understanding?

22 A That's what Mr. Giuffra told me. That is

1 what he asked for. So, yes, that was his  
2 understanding.

3 Q Did Mr. Giuffra specifically say that the  
4 committee was not interested in communications within  
5 the Office of Inspector General, other than those  
6 produced elsewhere?

7 A I don't remember. I don't know, but I was  
8 very careful when I listened to what he wanted,  
9 because I wanted to comply. I wanted everything to  
10 go right. I didn't want to have any problems.

11 So I listened extra specially carefully to  
12 what he said, and I tried to follow his every wish.

13 Q You called Mr. Giuffra to try to narrow  
14 the committee's request?

15 A That is right.

16 Q What was the basis for your desire to  
17 narrow the committee's request?

18 A Because -- let me tell you something.

19 Ever since I was made responsible for this  
20 production, for any production of Whitewater  
21 documents to the independent counsel, all the people  
22 involved from our office have always told me that

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1 there is nothing to hide here; that any of these  
2 documents can be produced to a legitimate request.

3 So, my whole attitude about this is: there  
4 is nothing to hide. Since the time that I started  
5 working on these documents, I have not seen anything  
6 that our office needs to worry about, either.

7 So my whole attitude is, nothing to hide  
8 -- no problem. Come and look at documents. We had  
9 had success with the independent counsel in narrowing  
10 down their request. We had had tremendous success  
11 with the House. They offered, or they agreed, to  
12 come and look at our documents and, in fact, I made  
13 the same offer to the Senate more than once. It's in  
14 more than one of my responses, saying "The OIG has  
15 offered to permit your staff to review all of the  
16 documents we possess that would relate in any way to  
17 your investigation, with the exception of those that  
18 relate to communications between our office and the  
19 Office of the Independent Counsel. Although you have  
20 declined, our offer remains open for the duration of  
21 the Committee's proceedings."

22 It would have made it much easier if the

1 Senate had come and done the same thing as the House.  
2 Of course I was interested in narrowing the request.  
3 Bob Giuffra did narrow it very, very substantially at  
4 that first conversation. I knew that most of these  
5 documents wouldn't be of interest to you.

6 Also, all of the stuff at OI. No one has  
7 ever cared about those documents.

8 (Discussion off the record.)

9 MR. PORTNOY: We can go back on the  
10 record.

11 BY MR. PORTNOY:

12 Q Mr. Doery, was the principal purpose for  
13 your effort to narrow the request simply to make it  
14 more feasible for you to conduct the production?

15 A The answer to that is yes. And it was my  
16 understanding that the Senate did not wish to be  
17 overburdened, either.

18 I mean, I know that you guys have gotten  
19 reams of documents. And every time I shredded a  
20 document, there was an extra. I thought I was  
21 helping you out.

22 I guess that's not a specific answer to

1 your question. But I did answer your question  
2 already. I wanted to make our lives as easy as  
3 possible. Bob Giuffra told me that he wanted to make  
4 our lives as easy as possible.

5 Q There wasn't any particular information  
6 that you were trying to avoid having released, was  
7 there, sir?

8 A No. Like I said, there's nothing to hide.  
9 We let you come and look at the documents. The House  
10 had already looked at them.

11 Q And you weren't trying to protect anybody,  
12 were you, sir?

13 A No. The record can probably not reflect  
14 the emphasis with which I say that word.

15 Q Did anyone ever ask you not to produce  
16 anything for any reason?

17 A No, except Alex Azar, because we wanted to  
18 protect communications with the independent counsel.

19 Q Did you ever fail to produce anything  
20 responsive to the request?

21 A Because I am human, it is possible that I  
22 made a mistake. But I do not think that I made many



1 mistakes, if any.

2 Q Did you ever consciously fail to produce  
3 anything responsive?

4 A Absolutely not. There is nothing to hide  
5 here.

6 Q Is that statement true with respect to all  
7 three document productions that we've discussed here,  
8 sir?

9 A Yes.

10 (Pause.)

11 Q Earlier this month, when Ms. Kerner saw  
12 some documents in the Inspector General's office, was  
13 she in the Inspector General's office before you left  
14 the office?

15 A To go to the ICC building, you mean?

16 Q You indicated essentially you came back to  
17 your office from somewhere, and she was looking at  
18 documents.

19 A Right, that was ICC. That was at OI.

20 Q So you had left your office for what  
21 purpose?

22 A To work on the production from OI.

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1 Q So you left the Office of Investigations  
2 to go to the ICC building?

3 A That's right. And she was not in the  
4 office when I left.

5 Q Was she in the office when you returned?

6 A Yes, she was.

7 Q Where in the office was she?

8 A She was sitting at the table outside my  
9 office.

10 Q And she was reviewing documents?

11 A Yes.

12 Q Had the documents -- had you left the  
13 documents on the table?

14 A No. Someone else did. It must have been  
15 one of the other lawyers in my office.

16 Q Do you have any idea how the documents got  
17 to that table?

18 A Like I said, it must have been one of the  
19 other lawyers.

20 Q That was speculation. I'm wondering if  
21 you have any actual knowledge of how the documents  
22 got to the table.

- 1 A I didn't see it take place.  
2 Q Did anybody tell you?  
3 A Probably somebody did. But my very best  
4 guess -- I'm pretty darn sure that I'm right about  
5 this -- is that it was a lawyer on the staff.  
6 Q Do you have any idea who it might have  
7 been?  
8 A Yes.  
9 Q And that is?  
10 A Well, I guess I've named her in the record  
11 anyway. Sharon Separ, S-e-p-a-r. It would have been  
12 her, or it could have been a secretary who opened the  
13 files for her, Beverly Tressler. Valerie Lau, the  
14 Inspector General -- that was her secretary.  
15 Q Do you know if Ms. Kerner requested the  
16 documents?  
17 A Yes. She requested them of Lori Vassar.  
18 Q That day?  
19 A It could have been before Lori was making  
20 them available. Remember, these are all documents  
21 Francine either had or had seen before.  
22 Q So at this point, Ms. Kerner was of the

- 1 understanding that she had every right to look at  
2 documents, that there was no impediment to that, to  
3 looking at documents?  
4 A That is right. That was my understanding,  
5 too.  
6 Q What was the basis for your understanding  
7 at that time, sir?  
8 A Because it was through a conversation with  
9 Lori Vassar, when she made it clear to me that  
10 Francine was to have complete access.  
11 Q So Lori Vassar told you that?  
12 A Yeah.  
13 Q Do you recall when she might have told  
14 you?  
15 A No.  
16 Q Was it substantially before that day?  
17 A It was within a week or two.  
18 Q Some time later, Ms. Vassar told you that  
19 the Committee didn't want witnesses to see certain  
20 documents. Is that correct?  
21 A That's right.  
22 Q Do you recall when that was?

1       A    It was some time after the day that I  
2 brought the documents back from the ICC building.  
3 Did we determine when that date was? Was that the  
4 13th?

5           It was either the 13th or one or two days  
6 before.

7       Q    Would it refresh your recollection if I  
8 asked you whether or not she called you at home?

9       A    Whether who called me at home?

10      Q    Ms. Vassar.

11      A    Oh, yes, it does. It was a home telephone  
12 conversation -- that's right -- when I told her that  
13 I had showed the documents that I wasn't supposed to  
14 to Francine. That is correct. But it doesn't help  
15 me figure out what day it was. I'm sorry.

16      Q    Presumably it helped you figure out what  
17 time of day it was. It was late in the evening?

18      A    Yes. It was in the evening.

19      Q    You read from a letter the Committee sent  
20 to your office regarding production of documents, and  
21 you indicated language suggesting that if documents  
22 had already been produced, the Committee didn't need

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1 them again.

2       A    Right.

3       Q    I believe you testified it was your  
4 understanding the Committee didn't want duplicate  
5 copies.

6       A    That is right.

7       Q    Did that understanding in any way  
8 contribute to your decision to shred documents prior  
9 to producing them to the Committee?

10      A    Yes. Because when someone had asked --  
11 maybe all I should say about this is that another  
12 party had asked for duplicates if they were in  
13 different peoples' -- they wanted source.

14           So I knew that when someone asked you for  
15 copies, that you give copies. And I have been  
16 issuing subpoenas for years myself, and I do not  
17 expect that people produce extra copies to me unless  
18 I ask for them.

19           It was not only the fact that the letter  
20 to us said that extra copies were not desired. It  
21 was also subsequent conversations that I had with Mr.  
22 Giuffra in which he agreed it was okay not to produce

1 extra copies, because they had already been produced  
2 by another party.

3 Q Directing your attention to the events of,  
4 I believe it was October 18, when you and Mr.  
5 Rittling reviewed documents in the Office of  
6 Investigations, have you ever discussed this incident  
7 -- if that's the word I can use -- with anyone other  
8 than Mr. Rittling or Mr. Martin?

9 A I discussed it with Francine Kerner, and I  
10 discussed it with my lawyer.

11 Q Did you ever discuss it with Mr. White?

12 A Yes. That's right, I did.

13 I asked him --

14 Q Who is Mr. White, first?

15 A Chet White is the deputy assistant  
16 inspector general for investigations. That's his  
17 title.

18 Q When did your conversation with Mr. White  
19 occur?

20 A Chet called me to ask me whether what I  
21 had done is -- he had heard from Ed Martin that I  
22 shredded documents. And so I told him, "Don't worry,

1 it's only extra copies."

2 Q Do you recall when that conversation  
3 occurred?

4 A A day or two after I shredded them; two,  
5 maybe three days.

6 Q Do you recall anything else about that  
7 conversation?

8 A He just said he was just checking, that he  
9 wanted to be sure, that he felt obligated to call me,  
10 and not to worry.

11 Q Did you ever discuss the events of October  
12 18 with Lori Vassar?

13 A Yes. I told her that Chet called me, and  
14 wanted to know about that. And I wanted her to know  
15 this had taken place.

16 Q Do you know when that conversation  
17 occurred?

18 A It would have been the same day, or the  
19 day after.

20 Q Do you recall anything else about that  
21 conversation?

22 A No.



1 Q Did Ms. Vassar have a reaction to the  
2 information that the documents had been shredded?

3 A You know, she would have been disappointed  
4 that someone even asked me about this; someone's  
5 questioning it.

6 Q To your knowledge, did she take any  
7 further steps to ascertain what had occurred?

8 A To ascertain what?

9 Q What had occurred that day.

10 A No. I don't know if she called anybody.

11 Q You were going to say something else, sir?

12 A She told the Senate. That's what I  
13 thought you were asking about.

14 Q Were you aware in advance that she was  
15 going to tell the Senate?

16 A No.

17 Q Did she tell you after the fact?

18 A Later on she did.

19 Q Was that the first you knew of it?

20 A That the Senate was told?

21 Q Yes.

22 A Did she tell me? The answer is yes.

1 MR. PORTNOY: That's all I have, sir.  
2 Thank you very much.

3 MR. O'CALLAGHAN: Just a couple more  
4 questions, and we'll be out of here quickly.

5 FURTHER EXAMINATION

6 BY MR. O'CALLAGHAN:

7 Q I'm just trying to get a better handle on  
8 the day that Ms. Kerner was in, sitting at the table  
9 outside the suite looking at the documents. And when  
10 you came back from the ICC building, Ms. Vassar  
11 called you -- was it that night, the night after that  
12 -- and told you that you weren't supposed to show her  
13 other people's documents?

14 A It seems likely that it would have been  
15 that night -- I don't think so, because I got home so  
16 late. I don't think she would have called me that  
17 late.

18 Q You stated earlier you thought that was  
19 the same day that you helped Ms. Kerner with the  
20 production, right? Or were those two different days?

21 A They're two different days.

22 I'm sorry. Ask your question again.

1 Q I wanted to make that clear for the  
2 record, that the day that Ms. Kerner was reviewing  
3 documents at the table in the IG's office -- that was  
4 a separate day than the day that you helped with the  
5 production and shredded documents; that you and Ms.  
6 Kerner shredded the documents.

7 A I'm pretty sure that was two different  
8 days.

9 MR. O'CALLAGHAN: That's all I have.  
10 That's it. We're off the record.

11 (Discussion off the record.)

12 MR. O'CALLAGHAN: Let's go back on the  
13 record.

14 Before we go off the record, Mr. Doery,  
15 I'd like to give you the opportunity to make any  
16 clarifying statements. Or, counsel, if you'd like to  
17 ask some clarifying questions or make any statements,  
18 please do so.

19 THE WITNESS: Okay.

20 I think that I've pretty much answered all  
21 your questions and said most of what I had to say. I  
22 guess I would just like to add that throughout all of

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1 these three different productions that I have gone  
2 through on Whitewater, I've never had any interest in  
3 doing anything other than fully complying with  
4 anyone's request.

5 I have no motivation to do otherwise.  
6 Copies of any important documents are probably  
7 maintained by some party or other. I may not even  
8 know who has copies. I firmly believe that there's  
9 nothing in these documents that shows that anything  
10 improper happened by anyone in our office.

11 I'm a career civil servant. Why would I  
12 jeopardize my job, my career and my reputation over  
13 something like this? Everything I did in terms of  
14 getting rid of documents that were extras was done in  
15 order to keep my files more manageable. I see no  
16 reason why I have to keep umpteen documents that are  
17 copies of the same thing.

18 And I felt also that my organizing my  
19 documents this way was going to be helpful to the  
20 Senate, because I had a very clear impression from  
21 the Senate that you didn't want extra copies of  
22 things, either. Both written and orally, I had

1 gotten that message from the Senate.

2       There is no reason to suspect I did  
3 anything wrong. I had no motivation to do anything  
4 wrong, and I wouldn't risk my entire career to do  
5 something like that. That's all.

6       MR. O'CALLAGHAN: Thank you very much.

7       MR. MC DOUGAL: I have no questions.

8       MR. O'CALLAGHAN: Let's go off the record.

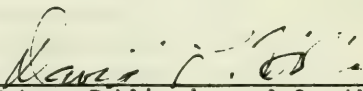
9       (Whereupon, at 5:40 p.m., the taking of  
10 the instant deposition ceased.)

11  
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13                   RIC DOERY  
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, David L. Hoffman, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
\_\_\_\_\_  
Notary Public in and for the  
District of Columbia

My Commission Expires 6/30/00



DEPONENT Ric Doery

## ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
<u>7</u>	<u>1</u>	Delete birth date		
		Ceska to Cesca at p 12 line 5,		
		p 12 line 16; p 14 line 6; p 30 line 20;		
		p 33 lines 17+18; p 36 line 17; p 77 lines 1+3		
		p 82 line 22; p 110 line 3.		
<u>21</u>	<u>13</u>	ideas to documents		
<u>24</u>	<u>3</u>	documents destroyed to documents were destroyed		
<u>26</u>	<u>12</u>	narrow to narrowed		
<u>66</u>	<u>2</u>	Before a period to Earlier	(Statement makes no sense otherwise)	
<u>66</u>	<u>6</u>	Offices to Office		
<u>67</u>	<u>18</u>	Lynda Sundgrove to Linda Sundro		
<u>83</u>	<u>5</u>	Savo to Sav. 11		
<u>88</u>	<u>16</u>	of the team to of the		
		CGC team.	(I can't have said "that I was on.")	
<u>92</u>	<u>17</u>	preserved to produced		
<u>93-96</u>		The document discussed in these		
		pages was already made public		
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